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LEE & HAYES PLLC
421 W. RIVERSIDE AVENUE, SUITE 500
SPOKANE, WA 99201

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APR 03 2006

OFFICE OF PETITIONS

In re Application of :
Zicheng Liu et al :
Application No. 11/048,398 :
Filed: February 1, 2005 :
Attorney Docket No. MSI-526USC13

ON PETITION

This is a decision on the petition filed, March 29, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination).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

Petitioner is advised that the issue fee paid on 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2624 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).

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. OMB 0651-0033
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,082,212

DATED : July 25, 2006

INVENTOR(S) : Liu, et al.

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

On the face page, in field (56), under "U.S. Patent Documents", in column 2, line 8, after "6,072,496 A" insert - - * - -.

On page 2, in field (56), under "Other Publications", in column 1, line 15, delete "coorton" and insert - - cartoon - -, therefor.

On page 2, in field (56), under "Other Publications", in column 1, line 25, delete "Pennsylvannia," and insert - - Pennsylvania, - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 10, delete "PighIn" and insert - - Pighin - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 26, delete "Disribution" and insert - - Distribution - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 34, delete "model–brased" and insert - - model–based - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 44, delete "Quatemions"," and insert - - Quaternions", - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 46–47, delete "Articifial Intellegence," and insert - - Artificial Intelligence, - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 48, delete ""Contructing" and insert - - "Constructing - -, therefor.

PTO/SB/44 (02-01)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,082,212

DATED : July 25, 2006

INVENTOR(S) : Liu, et al.

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

On page 2, in field (56), under "Other Publications", in column 2, line 49, delete "**tow**" and insert - - **two** - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 49, delete "view"." and insert - - view", - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 50, delete "266." and insert - - 266, - -, therefor.

On page 2, in field (56), under "Other Publications", in column 2, line 54, delete "interpetation" and insert - - interpretation - -, therefor.

On page 3, in field (56), under "Other Publications", in column 1, line 9, delete "interative" and insert - - interactive - -, therefor.

On page 3, in field (56), under "Other Publications", in column 1, line 12, delete "facical" and insert - - facial - -, therefor.

On page 3, in field (56), under "Other Publications", in column 2, line 9, after "IEEE" insert - - , - -.

On page 3, in field (56), under "Other Publications", in column 2, line 17, delete "Anlm3tion" and insert - - Animation - -, therefor.

In column 1, line 6, after "is" insert - - a - -.

In column 8, line 16, delete "0<e<3a" and insert - - $0 \leqq e \leqq 3a$ - -, therefor.

MAILING ADDRESS OF SENDER:

CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Atty Docket No: 149505.11

PTO/SB/44 (02-01)
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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,082,212

DATED : July 25, 2006

INVENTOR(S) : Liu, et al.

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

In column 9, line 25, delete "$\frac{(\tilde{m}_j^T E\tilde{m}_j)^2}{\tilde{m}_j^T E^T ZZ^T E\tilde{m}_j + \tilde{m}_j^T E^T ZZ^T E\tilde{m}_j}$" and insert - - $\frac{(\tilde{m}_j'^T E\tilde{m}_j)^2}{\tilde{m}_j'^T E^T ZZ^T E\tilde{m}_j + \tilde{m}_j'^T E^T ZZ^T E\tilde{m}'_j}$ - -, therefor.

In column 9, line 28, delete "$\tilde{m}_j = [\tilde{m}_j'^T, 1]^T$." and insert - - $\tilde{m}'_j = [\tilde{m}_j'^T, 1]^T$, - -, therefor.

In column 9, line 39, delete "$t_r \times$" and insert - - $t_r \times \mathbf{x}$ - -, therefor.

In column 9, line 50, delete "$F = F_{5\,pts} + w_p \sum_{j=1}^{K} \frac{(\tilde{m}_j^T E\tilde{m}_j)^2}{\tilde{m}_j^T E^T ZZ^T E\tilde{m}_j + \tilde{m}_j^T E^T ZZ^T E\tilde{m}_j}$" and insert - - $F = F_{5\,pts} + w_p \sum_{j=1}^{K} \frac{(\tilde{m}_j'^T E\tilde{m}_j)^2}{\tilde{m}_j'^T E^T ZZ^T E\tilde{m}_j + \tilde{m}_j'^T E^T ZZ^T E\tilde{m}'_j}$ - -, therefor.

In column 10, line 31, delete "Gausian" and insert - - Gaussian - -, therefor.

MAILING ADDRESS OF SENDER:

CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Atty Docket No: 149505.11

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,082,212

DATED : July 25, 2006

INVENTOR(S) : Liu, et al.

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

In column 10, line 49–50, delete "$\|m-\hat{m}\|^2+\|m'-\hat{m}\|^2$" and insert - - $\|m-\hat{m}\|^2+\|m'-\hat{m}'\|^2$ - -, therefor.

In column 11, line 17, delete "$\mathbf{C}_m$)" and insert - - $\mathbf{c}_m$) - -, therefor.

In column 11, line 32, delete "($\mathbf{P}_1$, $\mathbf{P}_2$, . . . ,$\mathbf{P}_k$)" and insert - - ($\mathbf{p}_1$, $\mathbf{p}_2$, . . . ,$\mathbf{p}_k$) - -, therefor.

In column 16, line 12, after "1999" insert - - . - -.

In column 17, line 2, after "1972" insert - - . - -.

In column 17, line 4, after "1974" insert - - . - -.

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Minneapolis, MN 55402

Atty Docket No: 149505.11

PATENT NO. 7,082,212

No. of additional copies

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/04/10

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11048398 Patent No.: 7082212

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: _____

_____

_____

_____

_____

_____ **SPE**

2624 **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MARK G. BOCCHETTI
EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER, NY 14650-2201

In re Application of

Serial No.: 11/048,421
Filed: FEBRUARY 1, 2005
For: ENHANCING CMYK COLOR WORKFLOW FOR CMYKF COLOR

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition pursuant to 37 C.F.R. § 1.84(a)(2), filed July 21, 2008, requesting acceptance of color drawings.

The petition requests that the color drawings/photographs, noted as Figures 3, 7, and 8 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

A review of the file record reveals that applicant has provided three sets of color drawings, filed simultaneously with the subject petition and the required amendment to the specification.

Petitioner has satisfied the requirements of 37 C.F.R. §1.84(a)(2). Accordingly, the petition is **GRANTED**.

The application file will be forwarded to the examiner for action in appropriate turn.

Kenneth A. Wieder
Quality Assurance Specialist
TC 2600 Communications

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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

Applicant	: Warren E. Cory	: DECISION ON REQUEST FOR
Patent Number	: 7623660	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,443	: 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 **1308** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: David S. Cortright	: DECISION ON REQUEST FOR
Patent Number	: 7660809	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,447	: 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 **421** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P. O. BOX 2245
MORRISTOWN, NJ 07962-2245

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MAY 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Christopher D. Martin et al	:	
Application No. 11/048,450	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. H0008440-0555	:	

This is a decision on the petition under 37 CFR 1.182, filed, October 12, 2006, to correct the spelling of the name of inventor "Kevin G. Plei" to – Kevin G. Piel --.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct spelling of the above-named inventor. A corrected Filing Receipt, which sets forth the correct spelling of the above-named inventor, accompanies this decision on petition.

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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	TOT CLMS	IND CLMS
11/048,450	01/31/2005	2612	1050	H0008440-0555	21	3

CONFIRMATION NO. 6417

CORRECTED FILING RECEIPT

OC000000024137772

128
HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Date Mailed: 05/30/2007

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

Applicant(s)

Christopher D. Martin, Plainview, NY;
Thomas S. Babich, Glen Cove, NY;
Kevin G. Piel, Ronkokoma, NY;

Assignment For Published Patent Application

HONEYWELL INTERNATIONAL, INC

Power of Attorney:

Robert Smith--24681
Joseph Abate--30238
John Beninati--40510

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 US11/048,450

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Security system access control and method

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

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12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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DEC 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Levy et al.	:	DECISION GRANTING STATUS
Application No. 11/048,452	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 273012008802	:	

This is a decision on the petitions filed March 24, 2008 which are being collectively being treated as (1) a request under 37 CFR 1.48(a) to amend the inventive entity by the addition of inventors Simon Leong, Anges How-Ching Chan, David William Carey Hunt and Martin Renke , (2) a petition under 37 CFR 1.183, requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being added[1], and (3) as authorized by 37 CFR 1.48(a)(3), a petition under 37 CFR 1.47, to accept the declaration filed March 24, 2008, which lacks the signature of the inventor being added Leong required by 37 CFR 1.63.

The petitions are **GRANTED**.

If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors.

In those instances wherein a request under 37 CFR 1.48(a) and a petition under 37 CFR 1.47 have both been filed in an application, the Office of Petitions may first issue a decision on the request under 37 CFR 1.48(a) so as to determine the appropriate oath or declaration under 37 CFR 1.63 required for the petition under 37 CFR 1.47. In those situations where, as here, an inventor to be added refuses to submit a statement supporting the addition or such party cannot be reached, waiver under 37 CFR 1.183 of the requirement for a statement from that party would be appropriate upon a showing of such refusal or inability to reach the inventor. Every existing assignee of the original named inventors must give its consent to the requested correction. Where there is more than one assignee giving its consent, the extent of that interest (percentage) should be shown. Where no assignment has been executed by the inventors, or if deletion of a refusing inventor is requested, waiver will not be granted absent unequivocal support for the correction sought. Petitions under 37 CFR 1.47 are not applicable to the requirement for statements from each originally named inventor.

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

[1] The petition is sua sponte being treated under 37 CFR 1.183.

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b).

The request under 37 CFR 1.48(a) in conjunction with the grant under 37 CFR 1.183 has been met.

The petition requesting waiver under 37 CFR 1.183 of the requirement in 37 CFR 1.48(a)(2) for a statement of lack of deceptive intent by the inventor Leong being added is granted. . Pursuant to petitioner's request, deposit account 03-1952 will be charged the $400.00 petition fee pursuant to 37 CFR § 1.17(f).

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 set forth in § 1.17(g); and (4) a statement of the last known address of the non-signing inventor.

All of the requirements have been met to establish that inventor Leong cannot be located.

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/048,492	01/31/2005	1638	1300	1936		12	3

CONFIRMATION NO. 7844

CORRECTED FILING RECEIPT

OC000000015916097

27310
PIONEER HI-BRED INTERNATIONAL INC.
7100 N.W. 62ND AVENUE
P.O. BOX 1000
JOHNSTON, IA 50131

Date Mailed: 04/29/2005

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

Applicant(s)

Martin Arthur Fabrizius, Redwood Falls, MN;
Michael Thomas Roach, Redwood Falls, MN;

Assignment For Published Patent Application

Pioneer Hi-Bred International, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **27310**.

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 US11/048,492

Projected Publication Date: 06/02/2005

Non-Publication Request: No

Early Publication Request: Yes

BES[illegible] COPY

Title

Soybean variety XB08P05

Preliminary Class

800

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 30 2006

OFFICE OF PETITIONS

WALLENSTEIN & WAGNER, LTD.
311 SOUTH WACKER DRIVE, 53RD FLOOR
CHICAGO IL 60606

In re Application of	:	
HAJIZADEH, et al.	:	
Application No. 11/048,494	:	DECISION ON PETITION
Filed: February 1, 2005	:	TO WITHDRAW
Attorney Docket No. 4110 P 022	:	FROM RECORD
	:	

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 18, 2006.

The request is **NOT APPROVED**.

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

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

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBERT B. PETERSEN PHD.**
32280 CREEKSIDE DRIVE
PEPPER PIKE, OH 44124

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/26/06

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/048,506 Patent No.: 7045692

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1638
Art Unit

11/048506

Cofc

OIPE IAP83
JUN 09 2006
PATENT & TRADEMARK OFFICE

PATENT
Attorney Docket No. ***P07022US00 - PHI 1980***

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENTEE:	**FOX, Russell L.**
PATENT NO:	**7,045,692 B2**
ISSUED:	May 16, 2006
TITLE:	HYBRID MAIZE 33N29

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR PTO MISTAKE (37 CFR § 1.322(a))

OK to enter PTB 8/15/06

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: Decision and Certificate of Correction
Branch of the Patent Issue Division

Certificate
JUN 14 2006
of Correction

Dear Sir:

Attached, in duplicate, is Form PTO-1050, with at least one copy being suitable for printing.

The exact page and line number where the errors are shown correctly in the application file are:

Page 4, line 27 and page 5, line 3, of the Amendment After Allowance (37 C.F.R. § 1.312) filed January 20, 2006.

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is, on the date shown below, being:

MAILING
☑ deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, ATTN: Decision and Certificate of Correction Branch of the Patent Issue Division Alexandria, VA 22313-1450.

FACSIMILE
☐ transmitted by facsimile to the Patent and Trademark Office, Art Unit 1638 at Fax No. (571) 273-8300.

JUN 15 2006

Date: 6/7/06

Lila A. T. Akrad

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

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

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NOV 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Mike DIETRICH et al.	:	DECISION ON PETITION
Application No. 11/048,508	:	UNDER 37 CFR 1.78(a)(3)
Filed: January 31, 2005	:	
Attorney Docket No. 2002P00799WOUS	:	

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/EP03/07016, filed July 1, 2003, set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/007016).

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 2832 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
11/048,514	01/31/2005	2621	500	PJ-023	31	20	3

CONFIRMATION NO. 5332

CORRECTED FILING RECEIPT

OC000000015996168

000050775
RADIX LABS, LLC
762 JUDITH COURT
INCLINE VILLAGE, NV 89451

Date Mailed: 05/11/2005

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

Applicant(s)

James A. Roskind, Redwood City, CA;
Aaron T. Emigh, Incline Village, NV;

Assignment For Published Patent Application

Radix Labs, LLC

Power of Attorney: None

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/554,668 03/18/2004
and claims benefit of 60/580,270 06/16/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/048,514

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

BEST AVAILABLE COPY

** SMALL ENTITY **

Title

Visual cryptography and voting technology

Preliminary Class

382

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

COPY MAILED
DEC 17 2008

In re Application of	:
McGee, et al.	: DECISION ON PETITION
Application No. 11/048,522	:
Filed: February 1, 2005	:
Atty. Dkt. No.: 200403729-1	:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 24, 2008.

The application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed January 7, 2008. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 25, 2008.

Petitioners assert that a response to the non-final Office was timely submitted on March 13, 2008. Petitioners reference as proof of submission and proof of receipt of the response a date stamped return postcard. Petitioners have provided a copy of the response purportedly previously submitted. The copy of the response bears a certificate of mailing date of March 13, 2008, in accordance with 37 CFR 1.8. Further, petitioners indicate that the reply referenced the incorrect application number.

The date stamped return postcard referenced by petitioners is not found amongst the October 24, 2008 submission.

Review of Office records reveals that a response received at the USPTO on March 17, 2008, while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 10/048,522. As a result of applicants' error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicants failed to correctly identify the application by citing an incorrect application number in the response. The Office elects, in this instance, to treat applicants' error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

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

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

This application is being forwarded to the Technology Center 2619 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,525	02/01/2005	Robert L. Jardine	200300607-2	5308

7590 04/15/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
CARDONE, JASON D

ART UNIT	PAPER NUMBER
2145	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY
02/08/2005 HAL111 00000041 082025 11048525
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR
05 FC:1202 850.00 CR

FORM PET651G (Rev. 08/07)

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

PIONEER HI-BRED INTERNATIONAL, INC.
7250 NW 62ND AVENUE
PO BOX 552
JOHNSTON IA 50131-0552

COPY MAILED
MAY 3 1 2006
OFFICE OF PETITIONS

Applicant: Hoffbeck
Appl. No.: 11/048,542
Filing Date: January 31, 2005
U.S. Patent No.: 7,034,214
Issue Date: April 25, 2006
Title: HYBRID MAIZE 35Y33
Attorney Docket No.: P07021US00
Pub. No.: US 2005/0150025 A1
Pub. Date: July 7, 2005

This is in response to the "Request for Corrected or Revised Patent Application Publication under 37 CFR 1.221(b)," which was received on August 4, 2005, for the above-identified application.

The request is DISMISSED as moot.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

Since the application has already issued as U.S. Patent No. 7,034,542 on April 25, 2006, the request is deemed moot.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEP 10 2008

DERON A. COOK
BROUSE MCDOWELL, LPA
STE. 500
388 S. MAIN STREET
AKRON OH 44311-4407

In re Application of	:	
COOPER, David T.	:	
Application No. 11/048,546	:	DECISION ON PETITION
Filed: February 01, 2005	:	TO WITHDRAW
Attorney Docket No. **21803.27346**	:	FROM RECORD

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 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Deron Cook, the sole attorney of record. Deron Cook has been withdrawn as attorney or agent of record. 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID T. COOPER**
2824 RIVIERA DRIVE APT. C.
FAIRLAWN OH 44333

cc: **BUCKINGHAM DOOLITTLE & BURROUGHS, LLP**
3800 EMBASSY PARKWAY SUITE 300
AKRON OH 44333

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080818

DATE : June 12, 2008

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction on Patent No.: 7,327,258

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

It's OK to enter the changes.

/DANIEL J. WU/
Supervisory Patent Examiner.Art Unit 2612

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.

RAMIREZ & SMITH
PO BOX 341179
AUSTIN TX 78734

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JUL 22 2008

OFFICE OF PETITIONS

In re Application of Barbara De Lury et al. Application No. 11/048,564 Filed: February 1, 2005 Attorney Docket Number: OnMeta.0004 Title: SYSTEMS, METHODS AND APPARATUS OF TRANSFORMATION AND INDEXING OF DATA FOR ACCESS BY A SEARCH ENGINE IN A WHOLE/PART SEARCH	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 5, 2008, to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 30, 2007, which set a shortened statutory period for reply of three months. A response was received on December 3, 2007, but no extensions of time under the provisions of 37 C.F.R.

§ 1.136(a) were requested[1]. Accordingly, the above-identified application became abandoned on August 31, 2007. A notice of abandonment was mailed on December 31, 2007.

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

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

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required. The amendment that was received on December 3, 2007 will serve as the required response. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

The five-month extension of time that was received on December 10, 2007 will be refunded via the issuance of a Treasury Check in due course.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on December 3, 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 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

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1 A five-month extension of time was later received on December 10, 2007. However, an extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Kazuhiro Yagishita	: DECISION ON REQUEST FOR
Patent Number	: 7625847	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,573	: 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 **616** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/048,578	02/01/2005	Luc Belanger	YOR920040385US2 (590.139)	7099

35195 7590 12/03/2009
FERENCE & ASSOCIATES LLC
409 BROAD STREET
PITTSBURGH, PA 15143

EXAMINER
ZARNEKE, DAVID A

ART UNIT	PAPER NUMBER
2891	

MAIL DATE	DELIVERY MODE
12/03/2009	PAPER

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

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

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IBM Corporation
Anne Vachon Dougherty
3173 Cedar Road
Yorktown, Hts., N.Y. 10598

In re Application of: Belanger, et al Serial No.: 11/048578 Filed: February 01, 2005	PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed 11 June 2009 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed 11 June 2009 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding:

Emmett Hughlett and Michael D. Stead

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

KBryant

Kiesha R. Bryant
Supervisory Patent Examiner,
Art Unit 2891

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NOV 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Mike DIETRICH et al.	:	DECISION ON PETITION
Application No. 11/048,606	:	UNDER 37 CFR 1.78(a)(3)
Filed: January 31, 2005	:	
Attorney Docket No. 2002P00798WOUS	:	

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/EP03/06862, 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/EP2003/006862).

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 2832 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

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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
11/048,606	01/31/2005	2832	1130	2002P00798WOUS	1	20	3

CONFIRMATION NO. 8033

CORRECTED FILING RECEIPT

OC000000021264877

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)

Mike Dietrich, Bornow, GERMANY;
Wolfgang Mucke, Berlin, 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/EP03/06862 06/27/2003

Foreign Applications

GERMANY 10234923.1 07/31/2002

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 US11/048,606

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Rotary selector

Preliminary Class

335

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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100 BOSCH BOULEVARD
NEW BERN, NC 28562

Mail Date: 04/20/2010

Applicant	: Mike Dietrich	: DECISION ON REQUEST FOR
Patent Number	: 7609138	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,606	: 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 **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,609	02/01/2005	David H. Hanes	200312551-1	8050

7590 04/15/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
COLES, EDWARD L

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY
02/08/2005 FFANHEIA 00000030 082025 11048609
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR
05 FC:1202 200.00 CR

FORM PET651G (Rev. 08/07)

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Entropy Matters LLC
P.O. Box 2250
NEW YORK, NY 10021

Mail Date: 04/21/2010

Applicant	: Zain K. Saidin	: DECISION ON REQUEST FOR
Patent Number	: 7646906	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,630	: 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 **1370** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Harness Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills MI 48303

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In re Application of
Mark A. Etter, et al.
Application No. 11/048,639
Filed: January 31, 2005
Attorney Docket No. 0275MA-001428/US/CPC

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 25, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

PTO/SB/64 (08-08)
Approved for usethrough 9/30/2008. 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) 0275MA-001428/US/CPC

First named inventor: Mark A. Etter

Application No.: 11/048,639 Art Unit: 3746

Filed: Janaury 31, 2005 Examiner: Philip Earl Stimpert

Title: PORTABLE AIR COMPRESSOR TOOL CARRIER

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 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)). Applicant claims small entity status. See 37 CFR 1.27.

   ☒ Other than small entity - fee $1,620.00 (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 an Amendment (identify type of reply):
      ☐ has been filed previously on _____ .
      ☒ is enclosed herewith.

   B. The issue fee of $ _____
      ☐ has been paid previously on _____ .
      ☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137. Theinformation 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 ChiefInformation Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 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. Box1450, 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 files 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/application 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.

/Timothy D. MacIntyre/	October 9, 2008
Signature	Date
Timothy D. MacIntyre	42,824
Typed or Printed Name	Registration Number, if applicable
PO Box 828	248 641-1600
Address	Telephone Number
Bloomfield Hills, MI 48303	
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 electronically on the date shown below to the Patent and Trademark Office.

October 9, 2008	/Mary Ellen Donovan/
Date	Signature
	Mary Ellen Donovan
	Typed or printed name of person signing certificate

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	11/048,639
Filing Date:	January 31, 2005
Applicant:	Mark A. Etter
Group Art Unit:	3746
Examiner:	Philip Earl Stimpert
Title:	PORTABLE AIR COMPRESSOR TOOL CARRIER
Attorney Docket:	0275MA-001428/US/CPC

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

RESPONSE

Sir:

In response to the Office Action mailed February 25, 2008, please amend the application as follows and consider the remarks set forth below.

Amendments to the Claims begin on page 2 of this paper.

Remarks begin on page 7 of this paper.

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

JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

JUN 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard G. Wilde et al	:	
Application No. 11/048,656	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 10589-016-999	:	

This is a decision on the petition, filed May 31, 2007, which is being treated as a petition under both of the provisions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of priority to the prior-filed international Application No. PCT/US03/23182, filed July 23, 2003, and provisional Application No. 60/398,333, filed July 24, 2002.

The petition is **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 (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120, 365(c) and 119(e) as set forth in the **Application Data Sheet filed on June 5, 2007** is accepted as being unintentionally delayed.[1]

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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

The rules at 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. 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) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1626 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120, 365(c) and 119(e) to the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[1] The amendment to the specification and Application Data Sheet filed with the petition on May 31, 2007 are not acceptable and will not be entered since they include an improper incorporation by reference statement. *See* 35 U.S.C. § 132(a) and Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note also* MPEP §§ 201.06(c) and 608.04(b).

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/048,656	01/21/2005	1626	1815	10589-016-999	61	4

CONFIRMATION NO. 8101

CORRECTED FILING RECEIPT

OC000000024529001

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Date Mailed: 06/26/2007

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

Applicant(s)

Richard G. Wilde, Somerville, NJ;
James J. Takasugi, Lawrenceville, NJ;
Seongwoo Hwang, Edison, NJ;
Ellen M. Welch, Califon, NJ;
Guangming Chen, Bridgewater, NJ;

Power of Attorney: The patent practitioners associated with Customer Number **20583**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/23182 07/23/2003
which claims benefit of 60/398,333 07/24/2002

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 US11/048,656

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Ureido substituted benzoic acid compounds and their use for nonsense suppression and the treatment of disease

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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PCT Therapeutics, Inc.
100 Corporate Court
South Plainfield, NJ 07080

Mail Date: 04/21/2010

Applicant	: Richard G. Wilde	: DECISION ON REQUEST FOR
Patent Number	: 7405233	: RECALCULATION of PATENT
Issue Date	: 07/29/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,656	: OF WYETH
Filed	: 01/21/2005	:
		:

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard G. Wilde et al	:	
Application No. 11/048,657	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 10589-029-999	:	

This is a decision on the petition, filed February 14, 2007, which is being treated as a petition under both of the provisions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of priority to the prior-filed international Application No. PCT/US03/23183, filed July 23, 2003, and provisional Application No. 60/398,267, filed July 24, 2002.

The petition is **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 (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120, 365(c) and 119(e) as set forth in the Application Data Sheet filed on June 5, 2007 is accepted as being unintentionally delayed.[1]

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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

The rules at 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. 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) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1621 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120, 365(c) and 119(e) to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[1] The amendment to the specification and Application Data Sheet filed with the petition on February 14, 2007 are not acceptable and will not be entered since they include an improper incorporation by reference statement. *See* 35 U.S.C. § 132(a) and Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note also* MPEP §§ 201.06(c) and 608.04(b).

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/048,657	01/21/2005	1621	2765	10589-029-999	63	10

CONFIRMATION NO. 8103

CORRECTED FILING RECEIPT

OC000000024508734

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Date Mailed: 06/25/2007

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

Applicant(s)

Richard G. Wilde, Somerville, NJ;
Ellen M. Welch, Califon, NJ;
James Jan Takasugi, Lawrenceville, NJ;
Neil G. Almstead, Princeton, NJ;
Steven Marc Rubenstein, Pacifica, CA;
Holger Beckmann, Freiburg, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **20583**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/23183 07/23/2003
which claims benefit of 60/398,267 07/24/2002

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 US11/048,657

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ACETYLAMINO BENZOIC ACID COMPOUNDS AND THEIR USE FOR NONSENSE SUPPRESSION AND THE TREATMENT OF DISEASE

Preliminary Class

562

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JONES DAY
222 EAST 41ST STREET
NEW YORK, NY 10017

COPY MAILED

JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard G. Wilde et al	:	
Application No. 11/048,659	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 10589-043-999	:	

This is a decision on the petition, filed April 11, 2007, which is being treated as a petition under both of the provisions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of priority to the prior-filed international Application No. PCT/US03/23185, filed July 23, 2003, and provisional Application No. 60/398,334, filed July 24, 2002.

The petition is **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 (iii) and 1.78(a)(5)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 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(s) as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application(s) claiming the benefit of the prior-filed provisional application(s) must have been filed within twelve months of the filing date of the prior-filed provisional application(s).

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120, 365(c) and 119(e) as set forth in the **Application Data Sheet filed on June 5, 2007** is accepted as being unintentionally delayed.[1]

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 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed 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.

The rules at 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require 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. 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) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 1623 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120, 365(c) and 119(e) to the prior-filed applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

---

[1] The amendment to the specification and Application Data Sheet filed with the petition on April 11, 2007 are not acceptable and will not be entered since they include an improper incorporation by reference statement. *See* 35 U.S.C. § 132(a) and Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note also* MPEP §§ 201.06(c) and 608.04(b).

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/048,659	01/21/2005	1623	665	10589-043-999	19	4

CONFIRMATION NO. 8097

CORRECTED FILING RECEIPT

OC000000024510408

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

Date Mailed: 06/25/2007

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

Applicant(s)

Richard G. Wilde, Somerville, NJ;
Neil G. Almstead, Princeton, NJ;
Ellen M. Welch, Califon, NJ;
Holger Beckmann, Freiburg, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number **20583**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/23185 07/23/2003
which claims benefit of 60/398,334 07/24/2002

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 US11/048,659

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Use of nucleoside compounds for nonsense suppression and the treatment of genetic diseases

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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PTC Therapeutics, Inc.
100 Corporate Court
South Plainfield, NJ 07080

Mail Date: 04/21/2010

Applicant	: Richard G. Wilde	: DECISION ON REQUEST FOR
Patent Number	: 7449570	: RECALCULATION of PATENT
Issue Date	: 11/11/2008	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,659	: OF WYETH
Filed	: 01/21/2005	:
		:

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.

OIPE IAP2
SEP 09 2005
PATENT & TRADEMARK OFFICE

DOCKET NO. : 31469-701.201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Robert Puskas, et al.		
Serial No.:	11/048,660	Art Unit:	2878 1743
Filed :	January 28, 2005	Examiner:	~~Not Yet Assigned~~ Gakh
For:	SYSTEM AND METHODS FOR SAMPLE ANALYSIS	Confirmation No.:	~~8116~~

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

PETITION TO MAKE SPECIAL UNDER (37 CFR 1.102(d)

Sir:

Applicants hereby petition to make this application special because the application relates to counter-terrorism.

As a showing of this fact, accompanying this petition is:

(check one of the following)

- ☐ applicant's birth certificate.
- ☐ a declaration by the applicant that he/she is over 65 years of age.
- ☒ statement in support of petition under 37 CFR 1.102(d)

A fee of $130.00 is required with this petition under CFR 1.17(h), in accordance with 37 CFR 1.102(d).

09/07/2005 EAYALEW1 00000058 232415 11048660
01 FC:1464 130.00 DA

C:\NrPortbl\PALIB1\CABA\2717866_1.DOC

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
APR 1 1 2006

OIPE IAP2
SEP 0 9 2005
PATENT & TRADEMARK OFFICE

DOCKET NO. 31469-701.201

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Robert Puskas, et al.	
Serial No.: 11/048,660	Art Unit: ~~2878~~ 1743
Filed: January 28, 2005	Examiner: Not Yet Assigned Gakh. 4
For: SYSTEM AND METHODS FOR SAMPLE ANALYSIS	Confirmation No.: 8116

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

STATEMENT IN SUPPORT OF PETITION UNDER 37 CFR 1.102(d)

Sir:

The present application discloses and claims general methodologies that are especially applicable to countering terrorism, and specifically discloses uses in countering bioterrorism. The application describes methods and instruments for detecting single molecules or particles (e.g., explosives, toxins, viruses, bacteria, and the like)—that is, the smallest possible unit of a substance can be detected. The instruments of the invention are designed to be extremely robust, reliable, rapid, and compact. These qualities, while desirable in any setting, are especially important in preventing and/or responding to terrorist threats. Such a threat may occur virtually anywhere and may require a rapid and reliable analysis of one or more samples to assess the actual threat level. The present invention provides instruments that can be brought to the scene, if necessary, and provide an extremely rapid analysis for a panel of possible terrorist agents. These include explosive agents, as well as bioterrorist agents.

The instruments and methods are especially suited for bioterrorist agent detection. Unlike explosives, bioterrorist agents may be dispersed at extremely low concentrations to virtually any location. The present existing and proposed systems for detecting bioterrorism agents are large, virtually fixed, instruments that lack extreme sensitivity. The specification explicitly recognizes and

APR 1 3 2006
PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700

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Paper No. None

BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP
900 THIRD AVENUE
NEW YORK NY 10022

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NOV 21 2005
OFFICE OF PETITIONS

In re Application of
Andrew Hausman, Karen D. Tannenbaum, Paul Brian Beatty, Jr., Lawrence C. Waldorf, Alan Dweck, Anish Malhotra, Guy Mock, and Richard Anthony Lawson Braham
Application No. 11/048,861
Filed: January 31, 2005
Attorney Docket Number: 3524/169B CON
Title: CENTRAL CREDIT FILTERING IN COMPUTERIZED TRADING

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 November 10, 2005.

The above-identified application was filed on January 31, 2005, identifying Andrew Hausman, Karen D. Tannenbaum, Paul Brian Beatty, Jr., Lawrence C. Waldorf, Alan Dweck, Anish Malhotra, Guy Mock, and Richard Anthony Lawson Braham as joint inventors. No oath or declaration was submitted on filing. On April 8, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same, the basic filing fee, and additional claim fees. The notice set a two-month period for response.

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.

Copied from 11048861 on 12/14/2005

With the present petition, Petitioner has included a declaration which has been executed by each of the joint inventors save Mr. Malhotra, the surcharge associated with the late filing of the same, the petition fee, a five-month extension of time[2], additional claim fees, the examination fee, the search fee, and the filing fee.

Petitioner further included the last known address of the non-signing inventor, along with proof that a copy of the entire application was sent to the non-signing inventor for review, and proof that the non-signing inventor refuses to join in the application.

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

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given 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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 The petition contains a certificate of mailing dated November 8, 2005.

Copied from 11048861 on 12/14/2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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IDEA ADVOCATES LAW GROUP, PC
239 NW 13TH AVENUE, SUITE 310
PORTLAND, OR 97209

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Ray Brossart, et. al.	:	
Application No. 11/048,684	:	DECISION GRANTING
Filed: February 1, 2005	:	PETITION
Attorney Docket No. 047-304-1	:	

This is a decision on the petition filed by facsimile transmission on August 9, 2005, requesting that the above-identified application be accorded a filing date of February 1, 2005, rather than the presently accorded date of January 30, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on February 1, 2005. The copy of the Express Mail label receipt No. ED 515024276 US bears a handwritten "date-in" of February 3, 2005, and a handwritten schedule of delivery "date-in" of February 2, 2005. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing, pursuant to 37 CFR 1.10, is February 1, 2005. It is also noted that the Application Transmittal Letter contained the same Express Mail number and a statement of Express Mail under 37 CFR 1.10, dated February 1, 2005.

In view of the conflicting dates on the label, a search of the USPS' Express Mail Track and Confirm database was made and confirms that the package bearing Express Mail label No. ED 515024276 US was accepted on February 1, 2005; therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to February 1, 2005 and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to Andrea Smith at (571) 272-3226. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Frances Hicks for
Brian Hearn
Petitions Examiner
Office of Petitions

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

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Kondo et al.	:	
Application No. 11/048,697	:	DECISION GRANTING PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 02860.0886	:	

This is a decision on the petition filed May 5, 2005, requesting that the application be accorded a filing date of February 3, 2005, with page 4 of the specification as part of the original disclosure.

On February 3, 2005, applicant filed the above-identified application. However, on March 28, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date of February 3, 2005, and advising applicant that page 4 of the specification appeared to have been omitted.

In response, on May 5, 2005, applicant submitted the present petition, a copy of page 4 of the specification, and a $400.00 petition fee. Additionally, applicant submitted a copy of applicant's returned, date-stamped postcard receipt acknowledging receipt of 111 pages of specification in the USPTO on February 3, 2005.

Upon review of the record, page 4 of the specification, deposited on February 3, 2005, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 3, 2005, included page 4 of the specification, which was subsequently misplaced in the USPTO. Therefore, the application, including page 4 of the specification, was complete on filing and will be granted a filing date of February 3, 2005.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby withdrawn. Accordingly, no petition fee is necessary. The $400.00 petition fee will be credited to applicant's deposit account.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of February 3, 2005,** using the 110 pages of specification submitted on that date, and page 4 of the specification submitted with the petition on May 5, 2005, as part of the original disclosure.

Any inquiries related to this decision should 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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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/30/2010

Applicant	: Horst Werner	: DECISION ON REQUEST FOR
Patent Number	: 7617165	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/048,702	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **584** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 04/21/2010

Applicant	: Satoshi Nakano	: DECISION ON REQUEST FOR
Patent Number	: 7618843	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,792	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,808	02/03/2005	Ikuo Shinozaki	265392US6	8222

22850 7590 02/01/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
WANG, HARRIS C

ART UNIT	PAPER NUMBER
2139	

NOTIFICATION DATE	DELIVERY MODE
02/01/2008	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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,808	02/03/2005	Ikuo Shinozaki	265392US6	8222

EXAMINER
WANG, HARRIS C

ART UNIT	PAPER NUMBER
2139	

NOTIFICATION DATE	DELIVERY MODE
02/01/2008	ELECTRONIC

7590 02/01/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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.

Ricardo Clemons
Patent Publication Branch
Office of Data Management

Refund Ref:
01/31/2008 0030049944

Credit Card Refund Total: $700.00

Am Exp..: XXXXXXXXXXX1007

FORM PET651G (Rev. 08/07)

Notice of Abandonment	Application No.	Applicant(s)	
	11/048,808	SHINOZAKI, IKUO	
	Examiner	Art Unit	
	Wang, Harris	2139	

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

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☑ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

/Rick Clemons/ ☐☐Administrative Assistant☐☐Art Unit: 3900

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA, VA 22314

COPY MAILED
DEC 15 2008

In re Application of	:	
Lee et al.	:	
Application No. 11/048,812	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 7685	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 20, 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, September 28, 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 December 29, 2007. A Notice of Abandonment was mailed May 28, 2008.

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

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

Further, the Power of Attorney filed November 20, 2008, is hereby accepted and made of record. The Notice of Acceptance of Power of Attorney is enclosed.

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

This application is being referred to Technology Center 1797 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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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
11/048,812	02/03/2005	Adam T. Lee	

CONFIRMATION NO. 8219

POA ACCEPTANCE LETTER

SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA, VA 22314

OC000000033613894

Date Mailed: 12/12/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2008.

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

/atkelley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wolf Greenfield & Sacks, PC
Federal Reserve Plaza
600 Atlantic Avenue
Boston, MA 02210-2211

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of
Pierick et al.
Application No. 11/048,835
Filed: February 2, 2005
Attorney Docket No. T0428.70049US02

LETTER

This is in response to the petition under 37 CFR 1.47(a), filed May 9, 2005.

In accordance with 37 CFR 1.63(d)(3), petitioner submitted a copy of the executed declaration filed in Application No. 09/335,946, filed on June 18, 1999, of which the present filing is a divisional application. Additionally, petitioner submitted a copy of the decision, mailed on September 29, 2000, 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 surcharge for the late filing of a declaration is unnecessary and will be credited to Deposit Account No. 23-2825.

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 inventor 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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD, 7th FLOOR
LOS ANGELES CA 90025-1030

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OCT 1 0 2006

OFFICE OF PETITIONS

In re Application of
CHEN, et al.
Application No. 11/048,837
Filed: February 1, 2005
Attorney Docket No. 005306.P114

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 31, 2006.

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

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

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
11/048,837	02/01/2005	Jing Chen	005306.P114

CONFIRMATION NO. 8156

OC000000020732117

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 10/06/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/11/2006.

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.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 6/3/2010
Patent No.	: 7,584,176 B2
Serial No.	: 11/048,837
Inventor(s)	: Chen et al.
Issue Date	: September 1, 2009
Title	: **METHODS AND APPARATUSES TO CANCEL QUERY**
Doc./File No.	: **OIC0211US**

Re: Reconsideration for Certificate of Correction

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

Respecting the alleged errors in the drawing figure, errors to drawing(s) are not correctable unless newly submitted drawing figure(s) is/are approved by the office. Therefore, no correction is in order here.

In view of the foregoing, your request is hereby denied.

However, further consideration will be given these matters, upon receipt of a request for **Reconsideration** certificate of correction (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892 w/references considered by examiner, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 756-1590
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

ecw

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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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Ian C.D. Care et al.
Application No. 11,048,850
Filed: February 3, 2005
Attorney Docket No. 122411

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

This is in response to the petition filed June 8, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on February 3, 2005, naming Ian C.D. Care and Mark Loweth but without a signed declaration. Accordingly, on March 9, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

In response, an oath or declaration executed only by joint inventor and a petition under 37 CFR 1.47(a) was filed. The petition argues that diligent efforts to locate joint inventor Loweth were used.

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 correspondence was mailed to the last known address although not delivered to the addressee and that additional efforts to locate Mr. Loweth, such as internet searches and searches of the telephone directory, were used to locate him, but to no avail.

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

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

Additionally, petitioner is advised that effective November 22, 2004, the petition fee was increased from $130.00 to $200.00. Petitioner's deposit account has been charged $70.00 to make up the difference between that which was paid and that which was due. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

This matter is being referred to Technology Center 3753 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

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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MARK LOWETH
19 FIRS CRESCENT
ALLESTREE
DERBY
DE22 2HJ

COPY MAILED

JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Ian C.D. Care et al.
Application No. 11/048,850
Filed: February 3, 2005
For: LEAKAGE DRAIN

Dear Mr. Loweth:

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:

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FEB 16 2007

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON DC 20006

In re Application of	:	
Kazutaka Yamamoto	:	
Application No. 11/048,871	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. R2180.0059/P059-H	:	

This is a decision on the petition, filed February 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2627 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE
APR 01 2005
TECHNOLOGY CENTER 3600

LITMAN LAW OFFICES, LTD
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

In re application of William McCullough Application No. 11/048,902 Filed: February 03, 2005 For: AERODYNAMIC GUIDING ARRANGEMENTS FOR VEHICLES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on February 03, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/slb: 03/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

JUL 26 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of
VOYER, NICOLAS, et al.
Application No. 11/048,906
Filed: February 3, 2005
For: **MOBILE RADIO COMMUNICATION SYSTEM, COMMUNICATION APPARATUS APPLIED IN MOBILE RADIO COMMUNICATION SYSTEM, AND MOBILE RADIO COMMUNICATION METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 13, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:

(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

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

COPY MAILED
DEC 22 2008

In re Patent No. 7,304,686	:	
Hirotoshi Miyazawa	:	
Issue Date: December 4, 2007	:	DECISION ON
Application No. 11/048,917	:	PETITION
Filed: February 3, 2005	:	
Atty Docket No. 008312-0314826	:	

This is a decision on the PETITION FOR DUPLICATE LETTERS PATENT PURSUANT TO 37 C.F.R. §1.182 filed August 1, 2008, requesting that a duplicate letters patent be issued on the basis that the original Letters Patent was never received at the Correspondence Address set forth on the form PTOL-85(b), the correspondence address of record. The petition has been made by an appropriate party in interest, i.e., an attorney of record. The petition includes a copy of the appropriate docket records to show non-receipt of the Letters Patent. The petition is being treated pursuant to 37 CFR 1.181 (a no-fee petition).

The petition is **GRANTED**.

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

Any questions concerning this decision may be directed to the undersigned at (571) 272 - 3219. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 x 119.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, Office of Data Management,
(FAX) 571-270-9753

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/13/09

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 11048965 Patent No.: 7356436 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

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

Thank You For Your Assistance

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

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

Comments: _____

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner

Art Unit 2857

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JEFFREY J. HOHENSHELL
MEDTRONIC, INC.
7601 NORTHLAND DRIVE
MINNEAPOLIS, MN 55428

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of
Robert F. Baugh, et al.
Application No. 11/049,010
Filed: February 2, 2005
Attorney Docket No. P-4457.13

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 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 reasons 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.

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: BRIAN P. HOPKINS
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY & POPEO, PC
666 THIRD AVENUE
NEW YORK, NY 10017

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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DEC 3 1 2007

OFFICE OF PETITIONS

In re Application	:	
Gensler, et al.	:	
Application No. 11/049,016	:	DECISION ON PATENT TERM
Filed: February 2, 2005	:	ADJUSTMENT
Attorney Docket No. BAES:039US	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)", filed May 31, 2007, requesting correction of the initial determination of patent term adjustment (PTA) from zero (0) days to two hundred nineteen (219) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **two hundred nineteen (219) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 19, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On May 31, 2007, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is two hundred nineteen (219) days.

---

[1] Applicants filed the application for patent term adjustment prior to payment of the issue fee.

Applicant asserts entitlement to a patent term adjustment of two hundred nineteen (219) days on the basis that the PTO improperly assessed Applicant a delay of four hundred forty-five (445) days for filing an Information Disclosure Statement (IDS) on September 26, 2006 after Applicants had filed a response on July 8, 2005 to a May 26, 2005 Notice requiring an applicant statement regarding a potential NASA interest.

Applicants fail to state whether the patent issuing from the application is subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of two hundred nineteen (219) days based on an adjustment for PTO delay of two hundred nineteen (219) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delay of four hundred forty-five (445) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8). The adjustment of 445 days is at issue.

The Office mailed a Notice requiring an applicant statement regarding a potential NASA interest on May 26, 2005. The Notice set a period for reply of forty-five days. If no reply was received within that time, the Notice informed Applicants that a formal requirement would be mailed. Applicant filed a reply on July 8, 2005. Applicant subsequently filed an IDS on September 26, 2006, and was assessed delay of four hundred, forty-five (445) days. However, Applicant should not have been assessed any delay for this filing. It was not supplemental to the July 8, 2005 reply.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **two hundred nineteen (219) days** (219 days of PTO delay and 0 days of applicant delay).

The $200 fee under § 1.18(e) has been charged to Deposit Account No. 50-1212, as authorized.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: updated PAIR screen (2 pages)

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Kunzler & McKenzie
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

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SEP 02 2008

In re Application of	:	
Joshua J. MILLER et al.	:	
Application No. 11/049,041	:	DECISION ON PETITION
Filed: February 02, 2005	:	
Attorney Docket No. 2049.2.2	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 17, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of April 17, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 2165 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALT LAKE CITY UT 84110

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of
Sorenson et al.
Application No.11/049,044
Filed: February 1, 2005
Attorney Docket No. 1950-4293.2US
Title: Apparatus And Method For Peritoneal Dialysis

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed February 1, 2005. The above-identified application was filed on February 1, 2005, with a petition seeking status under 37 CFR 1.47.

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 petition under 37 CFR. § 1.47(a) is **DISMISSED**.

The merits of the petition have not been reviewed because petitioner has failed to provide the appropriate petition fee. The petition fee is a prerequisite to review of the petition. As of November 22, 2004, the current petition fee is $200.00. A review of the file shows while a fee transmittal form has been submitted with the application, a box authorizing the Director to charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 was not checked. Nor was the $200.00 petition fee authorized.

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

By mail:

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

By facsimile: (703) 872-9306

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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MAY 0 9 2005

OFFICE OF PETITIONS

In re Application of
Sorenson et al.
Application No.11/049,044
Filed: February 1, 2005
Attorney Docket No. 1950-4293.2US
Title: Apparatus And Method For Peritoneal Dialysis

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR § 1.47(a), filed February 1, 2005 and supplemented on April 7, 2005.

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 petition under 37 CFR. § 1.47(a) is **DISMISSED**.

The above-identified application was filed on February 1, 2005, without a fully executed oath or declaration. A petition under 37 CFR 1.47 accompanied the application papers on February 1, 2005.

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

As to item (1), Rule 47 applicant has failed to show that inventor McNeil was ever presented with a copy of the application papers for application no. 11/049,044. Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or

declaration) to the non-signing inventor. See MPEP 409.03(d). Unless petitioner can establish 47 status was granted in application 09/962,027, petitioner will need to present application papers for application no. 11/049,044 to inventor McNeil and establish that he either refuses to the execute the papers or he can not be reached. See 37 CFR 1.63 (d)(3) and MPEP 409.03(h).

As to item (2), it is noted the declaration submitted does not contain the mailing address and residence of inventor Sorenson as is required by 37 CFR 1.63 (c)(1).

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

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of James Sorenson, Levoy Haight, Frank McNeil, Gloria Smith and Reed Winterton Application No.11/049,044 Filed: February 1, 2005 Attorney Docket No. 1950-4293.2US Title of Invention: Apparatus and Method for Peritoneal Dialysis	DECISION GRANTING PETITION UNDER 37 CFR 1.47(A)

This is in response to the renewed petition under 37 CFR 1.47(a) filed June 9, 2005.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/962,027 filed September 24, 2001, of which the instant filing is a divisional application. Furthermore, a copy of the decision, mailed May 20, 2005, granting a petition to accord § 1.47(a) status to the prior application has been obtained and placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS CA 90212

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of
Jay Victor
Application No. 11/049,062
Filed: February 2, 2005
Attorney Docket Number: R04-12-2366
Title: AUDIO SIGNAL CABLE

DECISION ON PETITION UNDER
37 C.F.R. §§1.78(a)(3)

This is a decision on the petition under 37 CFR §1.78(a)(3), filed June 24, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional application number 10/619,441, filed July 16, 2003.

Petitioner has filed a "Response to Office Action dated 5/15/05 and Petition under 35 USC 1.78(a)." As such, both his petition and a response to an Office action have been filed together as a single submission. For this reason, the petition cannot be accepted, pursuant to 37 C.F.R. §1.4(c), which sets forth, *in toto*:

Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

As such, the petition is **DISMISSED**.

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[1], hand-delivery[2], or facsimile[3].

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300 - please note this is a central facsimile number.

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 Senior Attorney Paul Shanoski at (571) 272-3225.

It is noted in passing that with the amendment submitted along with this petition, Petitioner has failed to indicate the relationship between the present application and 10/619,441.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
United States 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
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Paper No. None

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SUITE 325
BEVERLY HILLS CA 90212

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JAN 17 2006

OFFICE OF PETITIONS

In re Application of
Jay Victor
Application No. 11/049,062
Filed: February 2, 2005
Attorney Docket Number: R04-12-2366
Title: AUDIO SIGNAL CABLE

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §§1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 5, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional application number 10/619,441, filed July 16, 2003.

The original petition was submitted on June 24, 2005 and was dismissed via the mailing of a decision on September 20, 2005, as the petition and the amendment were filed together, a practice which is not in compliance with the requirements of 37 C.F.R. §1.4(c).

The renewed 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 application is submitted

The instant 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).

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 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, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2831 for appropriate action on the amendment filed with this renewed petition, 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.

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 Senior Attorney Paul Shanoski at (571) 272-3225.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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JOSEPH HAMILTON
PERKINS COIE LLP
1620 26TH FLOOR SIXTH
SANTA MONICA, CA 90404

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AUG 1 8 2006
OFFICE OF PETITIONS

In re Application of	:	
James M. Lipton	:	
Application No. 11/049,063	:	DECISION ON PETITION
Filed: February 2, 2005	:	TO WITHDRAW
Attorney Docket No. 54275.8011.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 March 30, 2006.

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

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

The correspondence address of record remains unchanged, which is the first address indicated below.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Dykema Gossett PLLC
10 S. Wacker Dr., Suite 2300
Chicago, IL 60606

cc: Zengen Inc.
7049 Owensmouth Avenue
Suite 112
Canoga Park, CA 91303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/049,063	02/02/2005	James M. Lipton	54275.8011.US01

CONFIRMATION NO. 9515

OC000000020053110

OC000000020053110

38939
DYKEMA GOSSETT PLLC
10 S. WACKER DR., STE. 2300
CHICAGO, IL 60606

Date Mailed: 08/16/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/01/2006.

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.

IRVIN DINGLE
OP (571) 272-3210

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
11/049,063	02/02/2005	James M. Lipton	54275.8011.US01

CONFIRMATION NO. 9515

OC000000020052975

OC000000020052975

PERKINS COIE LLP
POST OFFICE BOX 1208
SEATTLE, WA 98111-1208

Date Mailed: 08/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/01/2006.

- 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).

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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OCT 01 2009

OFFICE OF PETITIONS

ZACHARY T WOBENSMITH III
7746 101ST COURT
VERO BEACH FL 32967-2871

In re Application of	:	
Smith, et al.	:	
Application No. 11/049,093	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 1462P	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2009, 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 October 28, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 29, 2009. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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

The matter is being forwarded to Group Art Unit 1795 for consideration of the Amendment filed September 14, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY - 9 2005

JAMES RICHARDS
58 Boning Road
Fayetteville, TN 37334

In re application of	:	**DECISION ON PETITION**
James R. Younkin et al.	:	**TO MAKE SPECIAL**
Application No. 11/049,094	:	**(APPLICANT'S AGE)**
Filed: February 02, 2005	:	
For: SYSTEM AND METHOD FOR GYRO ENHANCED VERTICAL FLIGHT INFORMATION		

This is a decision on the petition submitted on February 02, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a declaration signed by Mr. Younkin indicating that he is at least 65 years of age.

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

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

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

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 04/27/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

COPY MAILED

MAY 23 2008

In re Application of	:	
John J. Potenza	:	
Application No. 11/049,123	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. SE001Ud	:	

This is a decision on the petition, filed December 28, 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 failure to timely file a reply within the meaning of 37 CFR 1.113 to the non-final Office action of June 20, 2006. A Notice of Abandonment was mailed on January 3, 2007. In response, on December 28, 2007, the present petition was filed.

It is noted that petitioner requests that the application be revived and a new Office action issued. Since the petition is not accompanied by an amendment or other appropriate response to continue prosecution in the present application, the request cannot be granted. It is also noted that petitioner indicates the reply to the outstanding Office action is the filing, on December 28, 2007, of Application No. 11/966,306. The petition is not accompanied by a statement of express abandonment in favor of the filing of the continuing application.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application and a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, in view of the statement that the reply is the filing of a continuing application, the statement will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

This application is being revived solely for the purpose of continuity with the Application No. 11/966,306, filed December 28, 2007. As continuity has been established by revival of this application, this application is again abandonment in favor of continuing Application No. 11/966,306, filed December 28, 2007.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KEVIN J. ZIMMER
COOLEY GODWARD KRONISH LLP
4401 EASTGATE MALL
SAN DIEGO, CA 92121

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

COPY MAILED

JUN 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Miyake et al.	:	
Application No. 11/049,154	:	DECISION ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. 275412002700	:	

This is a decision on the petition, filed May 22, 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 **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This above-identified application became abandoned for failure to file a response to the restriction requirement, which was mailed on August 22, 2007. The restriction requirement set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 23, 2007.

Petitioner asserts that the Office action dated August 22, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition fails to satisfy all of the above-stated requirements. Specifically, the petition fails to meet requirements 1 and 3.

As to item 1, the statements provided by attorney Rohani has failed to describe the system for recording an Office action and establish that the docketing system was sufficiently reliable.

As to item 3, a review of the docket records shows that petitioner has failed to provide master docket records for the firm. The document presented does not appear to be a master docket, but appears to be a mail log and case history report for the above application.

Accordingly, absent the required evidence to establish nonreceipt of the restriction requirement of August 22, 2007, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

A statement that the change of address did not result in nonreceipt of the restriction requirement should also be provided.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the 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).

The change of address submitted on petition has been entered.

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

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

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

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

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

Charlema 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

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

COPY MAILED
NOV 10 2008

In re Application of	:	
Miyake et al.	:	
Application No. 11/049,154	:	DECISION ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. 275412002700	:	

This is a decision on the renewed petition, filed August 18, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a response to the restriction requirement, which was mailed on August 22, 2007. The restriction requirement set an extendable one (1) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on September 23, 2007. A petition filed under 37 CFR 1.181 was dismissed on June 17, 2008.

Petitioner asserts that the Office action dated August 22, 2007 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner. The statement should also describe the system used for recording an Office action received at the correspondence address of record and establish that the docketing system was sufficiently reliable;

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 master docket for the firm docket record where the nonreceived Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement. If no master docket exists, the practitioner

> should so state and provide other evidence such, as but not limited: to the application file jacket, incoming mail log; calendar; reminder system or individual docket record for the application in question

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2627 for re-mailing the Office action of August 22, 2007. The period for reply will run from the mailing date of the Office action.

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

Mail Date: 04/21/2010

Applicant	: Cong Thanh Dinh	: DECISION ON REQUEST FOR
Patent Number	: 7644494	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,165	: 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 **624** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CECILIA L. YU
P.O. BOX 93495
CITY OF INDUSTRY CA 91715-3495

COPY MAILED
NOV 24 2008

In re Application of	:	
Cecilia L. Yu et al.	:	
Application No. 11/049,166	:	DECISION ON PETITION
Filed: February 01, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 31, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 01, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the restriction requirement of March 31, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $230 extension of time fee submitted on August 22, 2008 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

This application is being referred to Technology Center AU 3766 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Cecilia L. Yu Xiaodong Du	Art Unit:	
Serial No:		Docket No.:	
Filed:		Examiner:	
Title:	LOW FREQUENCY ANALYSIS OF CARDIAC ELECTRICAL SIGNALS FOR DETECTING HEART DISEASES, ESPECIALLY THE CORONARY ARTERY DISEASES.		

Commissioner of Patents and Trademarks
Washington, D.C. 20231

APPOINT POWER OF ATTORNEY

As one of the named inventors of the above entitled application, I hereby appoint **Cecilia L. Yu, inventor** to prosecute and transact all business in the Patent and Trademark Office connected therewith:

Cecilia L. Yu
16617 Echo Hill Way
Hacienda Heights, CA. 91745

Dated: 12-18-04

Xiaodong Du
Beijing, China

D:SS

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)

OIPE IAP10 OCT 21 2008 PATENT & TRADEMARK OFFICE

First named inventor: Yu, Cecilia L.

Application No.: 11/049,166 Art Unit: 3766

Filed: February 1, 2005 Examiner: Deborah Malamud

Title: Low Frequency Analysis of Cardiac Electrical Signals for Detecting Heart Diseases, Especially the Coronary Heart Diseases

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

[X] Small entity-fee $ 810.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

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

[ ] has been filed previously on _____.
[X] is enclosed herewith.

10/21/2008 HBLAHCO 00000015 11049166

B. The issue fee and publication fee (if applicable) of $ _____ 01 FC:2453 810.00 OP

[ ] 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

[X] Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

[ ] A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	10/15/2008 Date
Cecilia L. Yu Typed or printed name	32184 Registration Number, if applicable
16617 Echo Hill Way Address	(626) 964-6680 Telephone Number
Hacienda Heights, CA, 91745 Address	

Enclosures: [X] Fee Payment

[X] 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:

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

[ ] Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

10/15/2008 Date	Signature
	Cecilia L. Yu Typed or printed name of person signing certificate

Notice of Abandonment	Application No.	Applicant(s)	
	11/049,166	YU ET AL.	
	Examiner	Art Unit	
	DEBORAH MALAMUD	3766	

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

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *31 March 2008*.
   (a) ☒ A reply was received on *22 August 2008* (with a Certificate of Mailing or Transmission dated *22 August 2008*), which is after the expiration of the period for reply (including a total extension of time of *3* month(s)) which expired on *7/31/08*.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☒ The reason(s) below:

The applicant is advised that abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. See MPEP 711.03(c).I.A..

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11049166 Total Records Found: 8

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/21/2008	00000016	1	2453	$810.00	10/21/2008	CK
08/25/2008	00000001	1	2252	$230.00	08/22/2008	CK
04/11/2005	00000055	1	2622	-$219.00	02/01/2005	OP
04/11/2005	00000056	1	2202	$900.00	04/08/2005	CK
02/08/2005	00000040	1	2011	$150.00	02/01/2005	CK
02/08/2005	00000041	1	2111	$250.00	02/01/2005	CK
02/08/2005	00000042	1	2311	$100.00	02/01/2005	CK
02/08/2005	00000043	1	2622	$219.00	02/01/2005	CK

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MINOOKA, IL 60447

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OCT 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Chia Shun Lee	:	
Application No. 11/049,174	:	DECISION
Filing or 371(c) Date: 03/30/2005	:	ON PETITION
Title of Invention: METHOD FOR DIRECTLY	:	
FORMING A CUTTER MOLD WITH DOUBLE	:	
ETCHING AND APPARATUS THEREOF	:	

This is a decision on the correspondence, filed March 30, 2005, requesting the above-identified application be accorded as the filing date, the date that Figures 4 and 5, filed with the instant petition, are filed. The correspondence is properly treated as a petition under 37 CFR 1.182. The delay in treating this petition is regretted.

Applicant files the instant Petition and Figures 5 and 6, and requests the above-identified application be accorded as the filing date, the date that Figures 5 and 6, filed with the instant petition, are filed.

The petition is **granted**.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to March 30, 2005, including Figures 5 and 6 filed on March 30, 2005, and for the mailing of an updated filing receipt.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJR.: 08-06

Paper No: __

KARA K. FAIRBAIRN
FREDRIKSON & BYRON, P.A.
SUITE 4000
200 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402-1425

COPY MAILED

AUG 17 2006

OFFICE OF PETITIONS

In re Application of :
Hartig, et al. :
Application No. 11/049,180 :
Filing Date: 2 February, 2005 :
Attorney Docket No.: 44046.203.235.5 :

DECISION

This is a decision on the petition filed on 3 April, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

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 non-final Office action mailed on 26 September, 2005, with reply due absent extension of time on or before 27 December, 2005;
- the instant application went abandoned by operation of law after midnight 26 December, 2005;
- the Office mailed a Notice of Abandonment on 5 April, 2006;

- on 3 April, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of an amendment, 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]

STATUTES, REGULATIONS AND ANALYSIS

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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]

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,[7] and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

---

[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] The test of diligence in the prosecution of an application before the Commissioner is, in the context of ordinary human affairs, the test is such care as is generally used and observed by prudent and careful persons in relation to their most important business. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r. Pat. 1913).

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegation
of 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 that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Technology Center 1700 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

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

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OFFICE OF PETITIONS

Laubscher & Laubscher, P.C.
1160 Spa Road, Suite 2B
Annapolis, MD 21403

In re Application of
PEARSON
Application No. 11/049,194
Filed: February 2, 2005
Attorney Docket No. 23692

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 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 Lawrence E. Laubscher 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 Mark Pearson at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Mark Pearson
2733 North Power Road, Suite 102-463
Mesa, AZ 85215

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MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON TX 77027

COPY MAILED

DEC 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Pearson	:	
Application No. 11/049,194	:	DECISION ON PETITION
Filed: February 2, 2005	:	
Attorney Docket No. PEAA,002/CIP	:	

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 21, 2007.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so 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 $1540, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2173 for appropriate action by the Examiner in the normal course of business on the reply received September 12, 2008.

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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/049,194	02/02/2005	Mark Pearson	23692

CONFIRMATION NO. 7240

POA ACCEPTANCE LETTER

MARK R. WISNER
WISNER & ASSOCIATES
1177 WEST LOOP SOUTH
SUITE 400
HOUSTON, TX 77027

OC000000033595330

Date Mailed: 12/12/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/12/2008.

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

/amwise/

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

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WISNER & ASSOCIATES
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SUITE 400
HOUSTON TX 77027

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DEC 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark Pearson	:	
Application No. 11/049,194	:	DECISION ON PETITION
Filed: February 2, 2005	:	
Attorney Docket No. PEAA,002/CIP	:	

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2173 for appropriate action by the Examiner in the normal course of business on the reply received September 12, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-17-07

TO SPE OF : ART UNIT 2817

11/049,211

SUBJECT : Request for Certificate of Correction on Patent No.: 7088187

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

SPE

2817
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Ge Guo	: DECISION ON REQUEST FOR
Patent Number	: 7609288	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,217	: 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 **1256** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WWW.USPTO.GOV

Paper No. None

WOOD, HERRON & EVANS, LLP (NORDSON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Patrick Flinn, Kevin Stump, and James S. Tyler :
Application No. 11/049,263 :
Filed: February 2, 2005 :
Attorney Docket No. NOR-1199 :
Title: APPARATUS AND METHOD FOR PLASMA TREATING AND DISPENSING AN ADHESIVE/SEALANT ONTO A PART :

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 June 6, 2005.

On February 2, 2005, the application was deposited, identifying Patrick Flinn, Kevin Stump, and James S. Tyler as joint inventors. A blank declaration was included on filing. On March 10, 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. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

With the present petition, Petitioner has submitted the petition fee, the associated surcharge, a declaration which has been signed the first two listed inventors, the last known address of non-signing inventor Tyler, and a statement of facts.

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. The statement of facts indicates that only the declaration, the power of attorney, and the petition were sent to the non-signing inventor[2]. 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].

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2 Statement of facts, paragraphs 2 and 4

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. On July 15, 2005, the Central FAX Number will change to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 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

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COMMISSIONER FOR PATENTS
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Paper No. None

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Patrick Flinn, Kevin Stump, and James S. Tyler	:	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)
Application No. 11/049,263	:	
Filed: February 2, 2005	:	
Attorney Docket No. NOR-1199	:	
Title: APPARATUS AND METHOD FOR PLASMA TREATING AND DISPENSING AN ADHESIVE/SEALANT ONTO A PART	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed August 16, 2005.

On February 2, 2005, the application was deposited, identifying Patrick Flinn, Kevin Stump, and James S. Tyler as joint inventors. A blank declaration was included on filing. On March 10, 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. This Notice set a two-month period for reply.

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

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

With the original petition, Petitioner submitted the petition fee, the associated surcharge, a declaration which has been signed the first two listed inventors, the last known address of non-signing inventor Tyler, and a statement of facts.

The original petition was received on June 6, 2005 and was dismissed via the mailing of a decision on Just 12, 2005 for failure to establish that a complete copy of the application was mailed to the non-signing inventor.

With this renewed petition, Petitioner has indicated that he has since mailed a complete copy of the application to the non-signing inventor.

Therefore, this 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1219
SANDY UT 84091-1219

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OFFICE OF PETITIONS

In re Application of Yoon, et al. Application No.: 11/049,266 Filed: February 1, 2005 Attorney Docket No.: 00722-22317.CIP	: : : : :	DECISION ON PETITIONS UNDER 37 CFR 1.78(a)(6) & 37 CFR 1.55(c)

This is a decision under 37 CFR 1.78(a)(6) and 37 CFR 1.55(c), filed August 3, 2009 (certificate of mailing date July 31, 2009), to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of priority to a prior-filed provisional application, and under 35 U.S.C. 119(a)-(d) for the benefit of priority to prior-filed foreign applications, as set forth in the concurrently filed amendment.

As to the benefit claim 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 and after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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.

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed provisional applications under 35 U.S.C. § 119(e) is **GRANTED.**

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

As to the benefit claim under 37 CFR 1.55(c):

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);**
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) a nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **DISMISSED**.

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55,

and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicants desire to claim priority to the foreign applications noted in the petition.

37 CFR § 1.55(c) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

This petition is not treated under 37 CFR 1.78(a)(3) because, as noted in MPEP 1893.03(c)(III), a national stage application filed under 35 U.S.C. § 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application. *See also* MPEP 1893.03(b). In this regard, since the international application is not an earlier application (it has the same filing date as the national stage), a priority claim in the national stage of the international application is inappropriate. Accordingly, it is not necessary for the applicant to amend the first sentence of the specification to reference the international application number that was used to identify the application during international processing of the application by the international authorities prior to commencement of the national stage under 35 U.S.C. § 371.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/049,266	02/01/2005	1618	1850	00722-22317.CIP	25	6

CONFIRMATION NO. 1811

CORRECTED FILING RECEIPT

20551
THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

OC000000037869229

Date Mailed: 09/18/2009

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)

Hye-Jeong Yoon, Daejeon, KOREA, REPUBLIC OF;
Min Hyo Seo, Daejeon, KOREA, REPUBLIC OF;
Jeong-Kyung Kim, Daejeon, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

SAMYANG CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number 20551

Domestic Priority data as claimed by applicant

This application is a CIP of 10/492,091 04/09/2004
and is a CIP of 10/493,043 04/15/2004
and is a CIP of 10/962,204 10/07/2004 PAT 7,311,901
which claims benefit of 60/514,367 10/24/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/049,266**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Pharmaceutical formulations for itraconazole

Preliminary Class

424

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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OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

In re Application of Yoon, et al. Application No.: 11/049,266 Filed: February 1, 2005 Attorney Docket No.: 00722-22317.CIP	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.55(c)

This is a decision under 37 CFR 1.55(c), filed October 13, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 119(a)-(d) for the benefit of priority to prior-filed foreign applications, as set forth in the concurrently filed supplemental Application Data Sheet (ADS).

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Director may require additional information where there is a question whether the delay was unintentional); and
(5) a nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The petition under 37 CFR 1.55(c) is **GRANTED**.

This application was filed on February 1, 2005, which is after November 29, 2000 and an application listed in the benefit chain was filed within 12 months of the foreign applications to which benefit is now being claimed. On October 13, 2009, applicants filed an ADS which identifies the foreign application for which priority is claimed by application number, country

and filing date. The required petition fee of $1,410.00 was received with the petition on August 3, 2009. Lastly, petitioners have provided an adequate statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 1618 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 the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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
11/049,266	02/01/2005	1618	1850	00722-22317.CIP	25	6

CONFIRMATION NO. 1811

CORRECTED FILING RECEIPT

20551
THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY, UT 84091-1219

OC000000038693382

Date Mailed: 11/10/2009

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

Applicant(s)

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Jeong-Kyung Kim, Daejeon, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

SAMYANG CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number 20551

Domestic Priority data as claimed by applicant

This application is a CIP of 10/492,091 04/09/2004
which is a 371 of PCT/KR02/01943 10/17/2002
This application 11/049,266
is a CIP of 10/493,043 04/15/2004
which is a 371 of PCT/KR02/01942 10/17/2002
This application 11/049,266
is a CIP of 10/962,204 10/07/2004 PAT 7,311,901
which claims benefit of 60/514,367 10/24/2003

Foreign Applications

REPUBLIC OF KOREA 2001/64164 10/18/2001
REPUBLIC OF KOREA 200176213 12/04/2001
REPUBLIC OF KOREA 2001/64468 10/18/2001
REPUBLIC OF KOREA 2003/70667 10/10/2003

If Required, Foreign Filing License Granted: 03/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/049,266**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Pharmaceutical formulations for itraconazole

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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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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OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of	:	
Beam	:	
Application No. 11/049,272	:	DECISION ON PETITION
Filed: February 2, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 18133-217	:	

This is a decision on the petition, filed August 1, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 2, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of accompanies this decision on petition.

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

This application is being Technology Center Art Unit 3700 for examination in due course.

Alesia M. Brown
Pétitions 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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/049,272	02/02/2005	Jeffrey S. Beam	18133-217

CONFIRMATION NO. 1836

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Date Mailed: 03/01/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/07/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/049,272	02/02/2005	Jeffrey S. Beam	18133-217

CONFIRMATION NO. 1836

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Date Mailed: 03/01/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/07/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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SEP 1 1 2008

In re Application of	:	
Jeremy D. OLLERENSHAW, et al	:	
Application No. 11/049,291	:	DECISION ON PETITION
Filed: February 3, 2005	:	TO WITHDRAW
Attorney Docket No. 1577-218	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 29, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Mary J. Wilson does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309

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DICKE BILLIG & CZAJA
FIFTH STREET TOWERS
100 S. FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :

SEIDL, Harald :
Application No. 11/049,295 :
Filed: February 3, 2005 :
Attorney Docket No. **543822011600** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 27, 2007.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

George A. Loud, Esquire
BACON & THOMAS
625 Slaters Lane, Fourth Floor
Alexandria VA 22314-1176

In re Application of :
Solomon, et. al : DECISION ON PETITION
Application No. 11/049,303 :
Filed: February 3, 2005 :
Docket No.: EPA-C524 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 22, 2007.

The petition is hereby **GRANTED**.

This application became abandoned September 21, 2007 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed June 20, 2007. Notice of Abandonment was mailed October 18, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b).

As to item (1), the issue fee has been submitted.

As to item (2), the required petition fee has been submitted.

As to item (3), 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement

appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The provisions of 37 CFR 1.137(b)(4) do not apply to the instant application.

Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

The correspondence address contained on the instant petition differs from that in the official record. The instant petition decision is being dually mailed. However, all future correspondence concerning this application will be directed to the correspondence address in the record until such time as appropriate instruction is received to the contrary.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Laura Scalise
US Environmental Protection Agency
Office Of General Counsel
1200 Pennsylvania Ave., NW
Washington, DC 20460

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	BEFORE THE EXAMINER:
Cozewith et al.	§	Rip A. Lee
Serial No.: 11/049,318	§	Group Art Unit No.: 1713
Filed: February 02, 2005	§	Attorney Docket No.: 1998B038E/2
For: Blends Made From Propylene	§	Confirmation No.: Not Yet Assigned
Ethylene Polymers	§	
Customer No.: 23455	§	February 18, 2005

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Alexandria, VA 22313-1450

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PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

February 18, 2005
Date

Leandro Arechederra III
Attorney for Applicants
Registration No. 52,457

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2173
Fax: 281-834-2495

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAR - 3 2005

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ASHOK TANKHA
OF COUNSEL, LIPTON,
WEINBERGER & HUSICK
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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OFFICE OF PETITIONS

In re Application of	:	
Kingsley Chukwudum Nwosu et al.	:	
Application No. 11/049,328	:	DECISION ON PETITION
Filed: February 2, 2005	:	TO WITHDRAW
Attorney Docket No. Enenia_02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed July 18, 2007.

The request is **APPROVED**.

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

The request was signed by Ashok Tankha on behalf of all attorneys of record who are associated with the firm of Lipton,Weinberger & Husick. All attorneys/agents have been withdrawn.

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

A non-final rejection was mailed on June 14, 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.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: K. C. Nwosu
1875 Pilgrim Way
Union, NJ 07083

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/049,328	02/02/2005	Kingsley Chukwudum Nwosu	Enenia_02

CONFIRMATION NO. 9467

OC000000025539532

64188
ASHOK TANKHA
OF COUNSEL, LIPTON, WEINBERGER & HUSICK
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

Date Mailed: 08/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/18/2007.

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

Kimberly Bravinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Pavel Curtis	: DECISION ON REQUEST FOR
Patent Number	: 7577140	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,330	: 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 **855** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Terje Saether	:	
Application No. 11/049,334	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. 3299P	:	

This is a decision on the petition under 37 CFR 1.137(a), filed June 25, 2007, which is being treated as a petition to withdraw the holding of abandonment.[1]

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed July 20, 2006. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on October 21, 2006. A Notice of Abandonment was mailed on March 5, 2007.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of an Amendment, bearing a Certificate of Mailing dated November 20, 2006. Included was a transmittal letter itemizing a check for a one month extension of time. In addition, the extension of time included an authorization to charge any additional fees to a deposit account.

---

[1] Petitioner filed a petition to revive under 37 CFR 1.137(a), but paid the $1,500 petition fee for a petition to revive under 37 CFR 1.137(b).

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

Petitioner has presented no evidence that the $120 check for the one month extension of time was cashed by the Office. Accordingly, $120 has been charged to Deposit Account No. 02-2120, as authorized.

Given the basis for granting this petition, the $1,500 petition fee has been refunded to Deposit Account No. 02-2120.

The matter is being forwarded to Group Art Unit 2827 for consideration of the Amendment (Certificate of Mailing dated November 20, 2006), a copy of which has been supplied with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	BEFORE THE EXAMINER:
Cozewith et al.	§	Rip A. Lee
Serial No.: 11/049,339	§	Group Art Unit No.: ~~1713~~
Filed: February 02, 2005	§	Attorney Docket No.: 1998B038E/3
For: Blends Made From Propylene	§	Confirmation No.: Not Yet Assigned
Ethylene Polymers	§	
Customer No.: 23455	§	February 18, 2005

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PETITION TO MAKE SPECIAL

Sir:

Pursuant to 37 CFR § 1.102(c) and MPEP § 708.02 IV. (APPLICANT'S AGE), Applicant, Charles Cozewith, hereby petitions the Commissioner, through his attorney, that this application be made special and that the prosecution thereof be expedited as much as possible. As a basis for granting the above petition, it is submitted that Applicant is 65 years of age or more. Attached herewith is a copy of Applicant's birth certificate.

Respectfully submitted,

February 18, 2005
Date

Leandro Arechederra III
Attorney for Applicants
Registration No. 52,457

ExxonMobil Chemical Co.
Law Technology
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: 281-834-2173
Fax: 281-834-2495

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
MAR - 3 2005

I:\BPC\LAW\Prosecution\EMCC Prosecution\1998\1998B038e3\98B038ED-OIV-2005FEB18-Petition to Make Special.doc

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DINSMORE & SHOHL LLP
One Dayton Centre
One South Main Street, Suite 1300
Dayton, OH 45402-2023

Mail Date: 04/21/2010

Applicant	: Jude A. Stepaniak	: DECISION ON REQUEST FOR
Patent Number	: 7601218	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,354	: 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 **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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BAUSCH & LOMB INCORPORATED
ONE BAUSCH & LOMB PLACE
ROCHESTER, NY 14604-2701

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OFFICE OF PETITIONS

In re Application of :
Ramesh Krishnamoorthy :
Application No. 11/049,355 : ON PETITION
Filed: February 1, 2005 :
Attorney Docket No. P03359C1 :

This is a decision on the petition filed, November 17, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 28, 2006, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 29, 2006.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on November 17, 2006.

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

This matters is being referred to Technology Center AU 1618 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

Mail Date: 04/21/2010

Applicant	: Todd Simpson	: DECISION ON REQUEST FOR
Patent Number	: 7660472	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,361	: 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 **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.

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LUYU YANG
19 SHERBROOK STREET
TYNGSBOROUGH, MA 01879

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OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 11/049,392	:	ON PETITION
Filed: February 3, 2005	:	
Title: ELECTRIC PAPER REINFORCER / HOLE PUNCHER (EPRHP)	:	

This is in response to the communication, filed January 14, 2008, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On February 9, 2007, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. Subsequently, a Notice of Non-Compliant Amendment (Notice) was mailed on May 9, 2007, followed by a second Notice on October 16, 2007. The application became abandoned on November 17, 2007, for failure to submit a timely response to the second Notice of Non-Compliant Amendment. On December 17, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to the timely submission of a substitute amendment. Specifically, petitioner states that the amendment was faxed on November 16, 2007. However, the amendment was faxed to Examiner Osele's fax number, rather than the proper USPTO fax number for official correspondence.

As petitioner repeatedly states in the instant petition, the response submitted in November 2007 was sent to the incorrect fax number. Only the main USPTO fax number, (571) 283-8300, can be used for official correspondence. All other fax numbers are for submission of courtesy copies only. Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$770.00 for a small entity**;

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

Petitioner has already complied with item (1).

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $770.00 petition fee.

Further, the petition must be signed by:

(1) An attorney or agent of record appointed in compliance with § 1.34(b);
(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
(3) The assignee of record of the entire interest, if there is an assignee of record of the entire interest;
(4) An assignee of record of an undivided part interest, and any assignee(s) of the remaining interest and any applicant retaining an interest, if there is an assignee of record of an undividing part interest; or
(5) All of the applicants (§§ 1.42. 1.43 and 1.47) for patent, unless there is an assignee of record of the entire interest and such assignee has taken action in the application in accordance with §§ 3.71 and 3.73.

The instant petition was only signed by one of the two listed inventors in the application.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosures: Form PTO/SB/64 - Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b) and Privacy Act Statement

PTO/SB/64 (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

LUYU YANG
19 SHERBROOK STREET
TYNGSBOROUGH, MA 01879

COPY MAILED

APR 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	
Application No. 11/049,392	:	DECISION ON PETITION
Filed: February 3, 2005	:	
Title: ELECTRIC PAPER REINFORCER / HOLE PUNCHER (EPRHP)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment (submitted on January 14, 2008), (2) the petition fee, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center 1791 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 19,2007

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/049,420 Patent No.: 7227426 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE — 2817 **Art Unit**

OIPE IAP10
DEC 2 2 2009
PATENT & TRADEMARK OFFICE

11 049 458

COFC

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Patent No.: 7,539,513 B2

Date of Patent: May 26, 2009

Inventors: David A. Cathey JR.
Steven Howell
James Cathey

Assignee: NATIONAL TELEPHONE PRODUCTS, INC.

Title: Portable Phone With Ergonomic Image Projection System

Attorney Docket No. NTP 04-01

Confirmation No.: 9675
Customer No.: 22823

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 3.81(b)

December 17, 2009

Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the noticed mailed December 4, 2009, Applicant hereby petitions for a Request For A Certificate Of Correction for the above identified patent. In particular, for the lst named inventor, David A. Cathey, his city should be Eagle, ID. Secondly, the city for the Assignee "National Telephone Products, Inc." should be Eagle, ID. These mistakes were clerical errors.

As requested in the PTO notice, enclosed are the following:

- Assignment to National Telephone Products, Inc. recorded on 03-10-2005 at Reel/Frame 016385/0108, pgs 1-7
- The Commissioner is authorized to deduct any fees from Deposit Account **No. 07-1857**. A duplicate copy of this sheet is enclosed.

Also enclosed is PTO Form/SB/44 - Certificate of Correction with the desired corrections.

It is requested that a Certificate of Correction be issued in the above identified patent in accordance with the provisions of 37 C.F.R. §1.323.

Respectfully submitted:

Stephen A. Gratton, Registration No. 28,418
Attorney for Applicants

2764 South Braun Way
Lakewood, CO 80228
Telephone: (303) 989 6353

CERTIFICATE OF MAILING UNDER 37 C.R.F., §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop PETITIONS, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 17th day of December, 2009.

12/17/2009
Date of Signature

Stephen A. Gratton, Attorney for Applicants

OIPE IAP10
DEC 2 2 2009
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Patent No.: 7,539,513 B2

Date of Patent: May 26, 2009

Inventors: David A. Cathey JR.
Steven Howell
James Cathey

Assignee: NATIONAL TELEPHONE PRODUCTS, INC.

Title: Portable Phone With Ergonomic Image Projection System

Attorney Docket No. NTP 04-01

Confirmation No.: 9675
Customer No.: 22823

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 3.81(b)

December 17, 2009

Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the noticed mailed December 4, 2009, Applicant hereby petitions for a Request For A Certificate Of Correction for the above identified patent. In particular, for the lst named inventor, David A. Cathey, his city should be Eagle, ID. Secondly, the city for the Assignee "National Telephone Products, Inc." should be Eagle, ID. These mistakes were clerical errors.

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Respectfully submitted:

Stephen A. Gratton, Registration No. 28,418
Attorney for Applicants

2764 South Braun Way
Lakewood, CO 80228
Telephone: (303) 989 6353

CERTIFICATE OF MAILING UNDER 37 C.R.F., §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Mail Stop PETITIONS, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on this 17th day of December, 2009.

12/17/2009
Date of Signature

Stephen A. Gratton, Attorney for Applicants

OIPE IAP10
DEC 22 2009
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 11, 2005

PTAS

102959406A

STEPHEN A. GRATTON
LAW OFFICE OF STEPHEN A. GRATTON
2764 SOURTH BRAUN WAY
LAKEWOOD, CO 80228

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 03/10/2005 REEL/FRAME: 016385/0108
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
CATHEY, DAVID A., JR. DOC DATE: 02/16/2005

ASSIGNOR:
HOWELL, STEVEN DOC DATE: 02/23/2005

ASSIGNOR:
CATHEY, JAMES DOC DATE: 02/27/2005

ASSIGNEE:
NATIONAL TELEPHONE PRODUCTS, INC.
3390 N. TRIPLE RIDGE ROAD
EAGLE, IDAHO 83616

SERIAL NUMBER: 11049458 FILING DATE: 02/02/2005
PATENT NUMBER: ISSUE DATE:
TITLE: PORTABLE PHONE WITH ERGONOMIC IMAGE PROJECTION SYSTEM

MARY BENTON, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

3/0/5

03-15-2005

Form PTO-1595 (Rev. 09/04)
OMB No. 0651-0027 (exp. 6/30/2005)

U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RE

102959406

PATENTS

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

David A. Cathey, Jr.
Steven Howell
James Cathey

Execution Date(s) February 16, 23, & 27, 2005

Additional name(s) of conveying party(ies) attached? ☐ Yes ☑ No

2. Name and address of receiving party(ies)

Name: National Telephone Products, Inc.

Internal Address:

Street Address: 3390 N. Triple Ridge Road

City: Eagle

State: ID

Country: US Zip: 83616

Additional name(s) & address(es) attached? ☐ Yes ☑ No

2005 MAR 10 PM 2:11
FINANCE SECTION
OFFICE OF PUBLIC RECORDS

3. Nature of conveyance:

☑ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Government Interest Assignment
☐ Executive Order 9424, Confirmatory License
☐ Other

4. Application or patent number(s): ☐ This document is being filed together with a new application.

A. Patent Application No.(s)
11/049,458

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☑ No

5. Name and address to whom correspondence concerning document should be mailed:

Name: Stephen A. Gratton

Internal Address:
LAW OFFICE OF STEPHEN A. GRATTON

Street Address: 2764 Sourth Braun Way

City: Lakewood

State: CO Zip: 80228

Phone Number: 303 989 6353

Fax Number: 303 989 6538

Email Address: grattonstephen@qwest.net

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41) $ 40.00

☐ Authorized to be charged by credit card
☑ Authorized to be charged to deposit account
☐ Enclosed
☐ None required (government interest not affecting title)

8. Payment Information

a. Credit Card Last 4 Numbers
Expiration Date

b. Deposit Account Number 07-1857

Authorized User Name Stephen A. Gratton

9. Signature: March 7, 2005

Signature Date

STEPHEN GRATTON

Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 5

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O.Box 1450, Alexandria, V.A. 22313-1450

03/14/2005 ECOOPER 00000091 071857 11049458
01 FC:8021 40.00 DA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

DAVID A. CATHEY, JR.
STEVEN HOWELL
JAMES CATHEY

Serial No.:

Filing Date: Concurrently Herewith

Title: PORTABLE PHONE WITH ERGONOMIC IMAGE PROJECTION SYSTEM

Docket No. NTP 04-01

ASSIGNMENT:

_x_ Enclosed for recording
___ Previously recorded
Date: _____
Reel: _____

ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt, sufficiency, and adequacy of which are hereby acknowledged, the undersigned do hereby:

SELL, ASSIGN, AND TRANSFER to NATIONAL TELEPHONE PRODUCTS, INC. (the "Assignee"), a corporation of the State of Idaho, having a place of business at 3390 N. Triple Ridge Place, Eagle, ID 83616, the entire right, title, and interest for the United States and all foreign countries, in and to any and all improvements which are disclosed in the application for United States Letters Patent, which has been executed by the undersigned and is entitled: **PORTABLE PHONE WITH ERGONOMIC IMAGE PROJECTION SYSTEM**; such application and all divisional, continuing, substitute, renewal, reissue, and all other applications for patent which have been or shall be filed in the United States and all foreign countries on any of such improvements; all original and reissued patents which have been or shall be issued in the United States and all foreign countries on such improvements; and specifically including the right to file foreign applications under the provisions of any convention or treaty and claim priority based on such application in the United States of America;

AUTHORIZE AND REQUEST, the issuing authority to issue any and all United States and foreign patents granted on such improvements to the Assignee;

WARRANT AND COVENANT that no assignment, grant, mortgage, license, or other agreement affecting the rights and property herein conveyed has been or will be made to others by the undersigned, and that the full right to convey the same as herein expressed is possessed by the undersigned;

COVENANT that, when requested and at the expense of the Assignee, to carry out in good faith the intent and purpose of this assignment the undersigned will execute all divisional, continuing, substitute, renewal, reissue, and all other patent applications on any and all such improvements; execute all rightful oaths, declarations, assignments, powers of attorney, and other papers; communicate to the Assignee all facts known to the undersigned relating to such improvements and the history thereof; and generally do everything possible which the Assignee shall consider desirable for securing, maintaining, and enforcing proper patent protection for such improvements and for vesting title to such improvements in the Assignee;

TO BE BINDING on the heirs, assigns, representatives, and successors of the undersigned and extend to the successors, assigns, and nominees of the Assignee.

(Signature) _____ Date Feb. 16, 2005

DAVID A. CATHEY, JR.

STATE OF CALIFORNIA

COUNTY OF Riverside **}ss.**

BEFORE ME, this 16 day of February, 2005, personally appeared the above named individual(s), to me known to be the person(s) who is (are) described in and who executed the foregoing assignment instrument and acknowledged to me that he/she executed the same of his/her (their) own free will for the purpose therein expressed.

SEAL

_____
Notary or Consular Officer of the United States of America

MARK STRONGIN
Comm. 1353934
Notary Public-California
Riverside County
My Commission Expires
April 27, 2006

My Commission Expires: 4-22-05

(Signature) Steven Howell Date 2-23-05
STEVEN HOWELL

STATE OF IDAHO
}ss.
COUNTY OF Ada

BEFORE ME, this 23RD day of February, 2005, personally appeared the above named individual(s), to me known to be the person(s) who is (are) described in and who executed the foregoing assignment instrument and acknowledged to me that he/she executed the same of his/her (their) own free will for the purpose therein expressed.

SEAL

VIRGINIA E. WARE NOTARY PUBLIC STATE OF IDAHO

Virginia E. Ware
Notary or Consular Officer of the United States of America

My Commission Expires: 08-01-2007

(Signature) _____ Date 02-27-2005

JAMES CATHEY

STATE OF IDAHO

COUNTY OF Ada }ss.

BEFORE ME, this 27 day of February, 2005, personally appeared the above named individual(s), to me known to be the person(s) who is (are) described in and who executed the foregoing assignment instrument and acknowledged to me that he/she executed the same of his/her (their) own free will for the purpose therein expressed.

SEAL

Notary or Consular Officer of the United States of America

My Commission Expires: 07-26-05

BRIAN R. DAVIS
Notary Public
State of Idaho

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,539,513 B2

APPLICATION NO.: 11/049,458

ISSUE DATE : May 26, 2009

INVENTOR(S) : DAVID A. CATHEY, JR., STEVEN HOWELL, JAMES CATHEY

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

On the title page:

(75) Inventors: David A. Cathey, Jr. delete "Boise" and insert --Eagle--, ID (US)
Steven Howell, Boise, ID (US)
James Cathey, Eagle, ID (US)

(73) Assignee: National Telephone Products, Inc.
delete "Boise" and insert --Eagle--, ID (US)

In column 8, line 4:
delete "in" and insert --In--.

In column 12, line 28:
delete "it's" and insert --its--

In column 28, line 23 after system: insert --of claim 127--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Stephen A. Gratton
2764 South Braun Way
Lakewood, CO 80228

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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

COPY MAILED
MAR 15 2010

In re Application of :
Ting et al. :
Application No. 11/049,460 :
Filed: February 2, 2005 : ON APPLICATION FOR
Attorney Docket No. AL06160US01 : PATENT TERM ADJUSTMENT
Title: BIPIPERIDINE DERIVATIVES :
USEFUL AS CCR3 ANTAGONISTS :

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed November 5, 2009. This petition is properly treated under 37 C.F.R. 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is eight hundred seventy-five (875) days, not three hundred eighty-seven (387) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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

to the instant request for reconsideration 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 matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KEVIN MARK KLUGHART
2516 LILLIAN MILLER
PARKWAY
SUITE 115
DENTON, TX 76210-7205

In re Application of	:	
David William Holmes	:	
Application No. 11/049,495	:	DECISION ON PETITION
Filed: February 2, 2005	:	TO MAKE SPECIAL
For: HEARING AID EARTIP COUPLER	:	
SYSTEM AND METHOD	:	

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed August 16, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of the birth certificate for David William Holmes, in support of the petition, evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

OIPE JC135
MAY 2 5 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Gene Hirs

Docket No. 5740-00032

Serial No. 11/049,498

Filed February 2, 2005

For: OIL SEPARATOR/

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)

May 23, 2005

Sir:

Applicant hereby requests to enter a Petition to Make Special under 37 C.F.R. 1.102 (c) due to the Applicant's age.

In support thereof, Applicant includes a declaration and a copy of his drivers' license attesting that the Applicant is 84 years old.

Applicant have not calculated a fee to be due. The Commissioner is hereby authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-3238.

Respectfully submitted,

Date 5/23/05

By

Laurence C. Begin
Reg. No. 42,310
Phone: 248-889-5875
Fax: 248-887-7664

L.C. Begin & Associates, PLLC
510 Highland Avenue
PMB 403
Milford, Michigan 48381

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 3 1 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Michael Hoennig	: DECISION ON REQUEST FOR
Patent Number	: 7668862	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,517	: 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 **440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON, IA 50131-0552

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OFFICE OF PETITIONS

In re Application of	:	
Mark J. Hood	:	
Application No. 11/049,529	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 1973	:	

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 19, 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : January 20, 2007

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/049535 Patent No.: 7088616 B2

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

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

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

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: _____

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

4/9/07 _____ 2824

SPE **Art Unit**

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MADAN, MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA DRIVE
SUITE 700
HOUSTON TX 77057-5662

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OFFICE OF PETITIONS

In re Application of	:	
CHEMALI et al.	:	
Application No. 11/049,538	:	ON PETITION
Filed: 02/02/2005	:	
Attorney Docket No. 564-35246-USCP	:	

This is a decision on the "PETITION TO REMOVE LAST SUBMISSION," filed November 14, 2007.

Applicant requests that Office remove "the submission under EFS Identification number 2468105 submitted on November 14, 2007 at 16:39:19" from the Image File Wrapper and PAIR Website. Applicant explains that the document, an Application Data Sheet (ADS), was inadvertently submitted in this application but was intended for another application.

A review of the Image File Wrapper and PAIR reveal that the unintended ADS has been "closed" in the Image File Wrapper software-viewing program for Application No. 11/049,538. Accordingly, the petition is dismissed as moot. No petition fee is required.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MAR 20 2006

OFFICE OF PETITIONS

THOMAS J. BRINDISI
20 28TH PLACE, SUITE B
VENICE, CA 90291

In re Application of :
David T. Jennings III :
Application No. 11/049,574 : ON PETITION
Filed: February 1, 2005 :
Attorney Docket No. BRI/018DIV

This is a decision on the petition filed, March 14, 2006 and supplemented on March 17, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 16, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3643 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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ABHISHEK KUMAR
102 BETTE ROAD
EAST MEADOW NY 11554

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APR 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Kumar, Abhishek	:	
Application No. 11/049,581	:	ON PETITION
Filed: February 3, 2005	:	
Title: TEN0	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3711 for further processing of the RCE under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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GEORGE B. F. YEE
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JUN 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Kreang-Arekul et al.	:	DECISION ON PETITION
Application No. 11/049,588	:	TO WITHDRAW
Filed: February 1, 2005	:	FROM RECORD
Attorney Docket No. 021106-000520US	:	

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 11, 2009.

The request is **NOT APPROVED**.

Petitioner has requested that all future correspondence be directed to the address associated with Customer Number 23409. However, 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.*

As the address associated with Customer Number 23409 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71, it is improper. Therefore, all future communications from the Office will continue to be directed to the above-listed address until properly notified.

Currently, there is no outstanding Office action 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Somchai Kreang-Arekul	: DECISION ON REQUEST FOR
Patent Number	: 7650022	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,588	: 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 **1300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUN 2 2005

THE TORPY GROUP
202 N. Harbor City Blvd.
Suite 200
Melbourne, FL 32935

In re application of James P. Lyons et al. Application No. 11/049,596 Filed: February 02, 2005 For: DISPLAY SYSTEM AND ASSOCIATED METHODS	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on May 16, 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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
571) 272-6611

SNM/pav: 05/26/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 11 2005

THE TORPY GROUP, P.L.
202 N. Harbor City Blvd.
Suite 200
Melbourne, FL 32935

In re application of James P. Lyons et al. Application No. 11/049,596 Filed: February 02, 2005 For: DISPLAY SYSTEM AND ASSOCIATED METHODS	: : : :	**DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on June 20, 2005, to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The original petition filed on May 16, 2005 was dismissed on June 02, 2005 for failing to satisfy condition (B) above. The renewed petition satisfies the above deficiencies.

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/pav: 06/29/05

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Paper No.

Douglas L. Wathen
Gifford, Krass, Groh,
Sprinkle, Anderson &
Citkowski, P.C.
PO Box 7021
Troy, MI 48007-7021

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MAY 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Shaw et al.	:	DECISION ON
Application No. 11/049,608	:	PETITION
Filed: February 2, 2005	:	
Attorney Docket No.	:	
DRI-10002/36	:	

This is a decision on the PETITION UNDER 37 CFR § 1.10(d) TO CORRECT FILING DATE OF APPLICATION filed February 8, 2005. Petitioner requests that the above-identified application be accorded a filing date of February 2, 2005.

The petition is **DISMISSED AS MOOT**.

In support of the request for according of the petition under 1.10, applicants submit a copy of the USPS Pickup Service Statement; a printout form the United States Post Office website; and a copy of applicant's return postcard.

However, consideration of this evidence is unnecessary. A review of the record reveals that by Notice to File Missing Parts of Application mailed April 28, 2005, applicants were advised that the application had been accorded an application number and given a filing date. The filing date accorded to this application is February 2, 2005. Neither the instant

petition nor the record reveals the according of any other date for this application. Thus, the relief requested is moot.

No petition fee is required.

The application with a filing date of February 2, 2005 will be examined in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Richard O. Bartz
Suite 350
6750 France Avenue South
Edina, MN 55435

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of Holtan and Embertson :
Application No. 11/049,611 :
Filing Date: February 2, 2005 :
Attorney Docket No. B11.12.4 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.47(b) filed August 9, 2007.

The petition is **dismissed**.

The petition was initially matched with an incorrect file.

The petition and supplemental declaration were filed August 9, 2007.

The header of the petition incorrectly listed the Application No. 11/049,610. The petition and the $130 fee submitted with the petition have now been associated with Application No. 11/049,611.

A petition under 37 CFR 1.183, rather than 37 CFR 1.47, should have been filed.

Once an application has received a fully executed oath or declaration and been placed on the files for examination, 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.

Petitioner has failed to submit the required petition fee.

Petitioner has only submitted $130. However, since a petition under 37 CFR 1.183 is required, the required petition fee is $400.

The Office notes, even if the petition were properly considered under 37 CFR 1.47, the fee would be insufficient. The fee required for a petition under 37 CFR 1.47 is $200.

The Office has not considered the merits of the petition.

The merits of the petition will not be considered prior to payment of the full petition fee.

Petitioner should file a petition under 37 CFR 1.183.

A petition under 37 CFR 1.183 must be filed within two months of the instant decision. However, extensions of time under 37 CFR 1.136(a) are permitted. **Failure to respond to the instant decision will result in abandonment of the application.**

The petition under 37 CFR 1.183 should include $270 ($400 - $130 already paid).

Upon submission of the petition and fee, the Office will consider the merits of the petition.

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

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

By 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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OFFICE OF PETITIONS

In re Application of Holtan and Embertson	:	
Patent No. 7,318,431	:	
Issue Date: January 15, 2008	:	Decision on Petition
Application No. 11/049,611	:	
Filing Date: February 2, 2005	:	
Attorney Docket No. B11.12.4	:	

This is a decision on the petition filed January 28, 2008, under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.63 where they require that a supplemental declaration be executed by the named inventors.

The petition is **granted.**

The supplemental declaration filed August 9, 2007, is accepted on petition and has been placed i the file.

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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EDINA MN 55435

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OFFICE OF PETITIONS

In re Application of
HOLTAN, Mark N. et al.
Application No. 11/049,611
Filed: February 02, 2005
Attorney Docket No. **B11.12.4**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 05, 2008.

The request is **APPROVED**.

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

The request was signed Richard Bartz, the sole attorney of record. Richard Bartz has been withdrawn as attorney or agent of record. 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MARK N. HOLTAN**
14295 JAMES ROAD
ROGERS MN 55374

cc: **BIXBY ENERGY SYSTEMS, INC.**
9300 7TH AVENUE
MINNEAPOLIS MN 55428

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Chad Harris	: DECISION ON REQUEST FOR
Patent Number	: 7651482	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,645	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Paper No.

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

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OFFICE OF PETITIONS

In re Patent No. 7,220,681	:	DECISION ON REQUEST FOR
Issue Date: May 22, 2007	:	RECONSIDERATION OF
Application No. 11/049,671	:	PATENT TERM ADJUSTMENT
Filed: February 4, 2005	:	
Attorney Docket No. 02887.0313	:	
-00000	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 21, 2007. Patentees request that the patent term adjustment under 35 U.S.C. 154(b) be corrected to one hundred twenty-six (126) days as originally indicated in the Determination of Patent Term Adjustment mailed February 22, 2007.

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

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On May 22, 2007, the application matured into U.S. Patent No. 7,220,681, with a revised patent term adjustment of 89 days. On June 21, 2007, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 126 days. Patentees dispute the reduction, pursuant to 1.704(c)(10), of 37 days associated with the filing of an Information Disclosure Statement (IDS) on March 1, 2007.

Patentees do not dispute that an IDS was filed on March 1, 2007, and that the Office took action in response on April 6, 2007. Rather, patentees maintain that no reduction should be entered pursuant to 37 CFR 1.704(d).

The reduction of 37 days is found to be correct. Patentees' arguments have been considered, but not found persuasive. 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:

> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months;

Patentees do not dispute that the IDS was filed after the mailing of the notice of allowance. Moreover, a review of the IDS as filed reveals that it was not accompanied by a § 1.704(d) statement. Patentees are reminded of the specific language of 37 CFR §1.704(d)(*emphasis* added)

> 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.

Patentees argue that the IDS included a statement that should cause the filing of the IDS not to be considered a failure to engage within the meaning of 1.704(c)(10). However, the statement referenced by patentees is not the §1.704(d) statement quoted above. Nor do patentees make the correct §1.704(d) statement on request for reconsideration. Accordingly, the reduction of 37 days falls squarely within the basis for reduction set forth in 1.704(c)(10).

The rules make clear that the only exception to entry of a reduction for filing an IDS under circumstances that otherwise constitute a failure to engage in reasonable efforts to conclude prosecution is compliance with § 1.704(d). To ensure that a period of reduction would not be entered for filing the IDS, patentees could have filed the IDS within the period set forth in § 1.704(d) and included the § 1.704(d) statement.

In view thereof, the patent term adjustment indicated in the patent will remain eighty-nine (89) 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 decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

In re Patent No. 7,333,330	:	
Issue Date: February 19, 2008	:	
Application No. 11/049,672	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. 746801-38	:	

This is a decision on the petition filed September 25, 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 **DISMISSED AS MOOT**.

A review of the file record indicates that a Certificate of Correction was mailed on October 27, 2009, which reflects the corrected assignee name of "Technology Advancement Group, Inc.".

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/049,709	02/04/2005	Takashi Ueno	122419	1303

EXAMINER
MEYERS, MATTHEW S

ART UNIT	PAPER NUMBER
3689	

MAIL DATE	DELIVERY MODE
03/06/2009	PAPER

7590 03/06/2009

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Repln. Ref: 03/06/2009 BPOWELL 0010384300
DAH:150461 Name/Number:11878726
FC: 9204 $500.00 CR

$1275.00 CR

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment Date: 03/06/2009 BPOWELL
02/09/2005 RMEBRAHT 00000027 150461 11049709
05 FC:2202 125.00 CR -125.00 OP
06 FC:2203 180.00 CR

FORM PET651G (Rev. 08/07)

Adjustment date: 03/06/2009 BPOWELL
02/09/2005 RMEBRAHT 00000027 150461 11049709

02 FC:2111		-250.00	OP
04 FC:2201		-900.00	OP
05 FC:2202	125.00 CR	-125.00	OP
06 FC:2203	180.00 CR		

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 24,2007

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/049,710 Patent No.: 7234592 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: Corrections are merely to correct obvious printing errors and to correct syntax in claim 9.

/BPG/

SPE, AU 3728

PTO-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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McGinn Intellectual Property Law Group, LLC
8321 Old Courthouse Road
Suite 200
Vienna, VA 22182-3817

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In re Application of	:	
Eiji Shimada	:	
Application No. 11/049,720	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. NEC-585-US	:	

This is a decision on the petition for withdrawal of abandonment, or in the alternative petition under the unintentional provisions of 37 CFR 1.137(b), filed May 23, 2008, to revive the above identified application.

The petition for withdrawal of abandonment is **DISMISSED**.

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

In regard to the petition for withdrawal of abandonment:

A review of the file record shows that abandonment was proper. As noted in the Notice of Abandonment mailed March 25, 2008, it was applicant's responsibility to timely file an appeal brief or a Request for Continued Examination. Applicant's apparent misunderstanding of the examiner's position on allowability of the claims has no bearing on this issue. For this reason, the petition to withdraw the holding of abandonment is dismissed.

In regard to the petition under 37 CFR 1.137(b):

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 13, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A one (1) month extension of time was filed July 12, 2007. A Notice of Appeal was filed July 12, 2007. Accordingly, the date of abandonment of this application is September 13, 2007. A Notice of Abandonment was mailed on March 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly the RCE is being 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 2816 for processing of the RCE by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

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MAY 23 2008

JOE MCKINNEY MUNCY
PO BOX 1364
FAIRFAX, VA 22038-1364

In re Application of
Lin-Ming Cheng
Application No. 11/049,729
Filed: February 4, 2005
Attorney Docket No. 2450-0923PUS1

ON PETITION

This is a decision in response to the petition, filed December 17, 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 failure to reply in a timely manner to the non-final Office action mailed, March 12, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 12, 2007. A Notice of Abandonment was mailed on October 17, 2007. In response, on December 17, 2007, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Joe McKinney Muncy appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

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

This application is being referred to Technology Center AU 3634 for appropriate action by the Examiner in the normal course of business on the reply received December 17, 2007.

[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 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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of	:
Komachiya, et al.	: DECISION ON PETITION
Application No. 11/049,756	:
Filed: February 4, 2005	:
Atty. Dkt. No: 500.44673X00	:

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 26, 2010.

The application became abandoned April 26, 2009 for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (Notice) mailed March 25, 2009. The Notice set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed December 1, 2009.

Petitioners request withdrawal of the holding of abandonment of the instant application on the basis of non-receipt of the Notice. The petition asserts that when an Office Action is received from the USPTO, a computer docketing system is updated and the end of the statutory period for response to the Office Action is docketed manually in the firm's main Docketing Book. Petitioners have provided a copy of a case detail report in the computer docketing system and copy of the September 25, 2009 page of the Docket Book, which represents the end of the six month statutory period for response for an Office Action (Notice of Non-Compliant Amendment) dated March 25, 2009. Petitioners assert that the copy of the case detail report establishes that no record exists on such detail report or such page for Serial No. 11/049,756. The petition further asserts that practitioner herein reviewed the computer records and the file for the above-identified application, and found no indication that the Office communication mailed March 25, 2009 was ever received.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the

master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. See, MPEP 711.03(c).

The instant petition and supporting documents have been carefully review but are not found in compliance with procedures to establish non-receipt of an Office communication set forth at MPEP 711.03(c). The docketing records submitted do not appear to consist of a "Master Docket" for practitioner's law firm nor have petitioners addressed the availability of a "Master Docket." Accordingly, it cannot be concluded that the docketing system is sufficiently reliable.

Accordingly, the petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby DISMISSED.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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OFFICE OF PETITIONS

In re Application of	:	
Hardman et al.	:	
Application No. 11/049,773	:	DECISION ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. TK3875USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 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 July 12, 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 October 13, 2007. A Notice of Abandonment was mailed February 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, (2) the petition fee of $1,540.00 (charged to petitioner's deposit account as authorized on February 3, 2005), and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

Mail Date: 04/21/2010

Applicant	: Mark W. Kroll	: DECISION ON REQUEST FOR
Patent Number	: 7590445	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,781	: 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 **243** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BROOKS KUSHMAN
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD MI 48075

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SEP 30 2005

OFFICE OF PETITIONS

In re Application of :
Horst Kober et al :
Application No. 11/049,786 :
Filed: February 3, 2005 :
Attorney Docket No. KOA 0255 PUS (R 1512) :

ON PETITION

This is a decision on the petition, filed September 26, 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 11, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2833 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

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

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In re Application of	:	
MALECKI, William et al.	:	
Application No. 11/049,791	:	DECISION ON PETITION
Filed: February 02, 2005	:	TO WITHDRAW
Attorney Docket No. **022128-000211US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to TOWNSEND & TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on July 11, 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: **OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.**
1940 DUKE STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Sridhar Varadarajan	: DECISION ON REQUEST FOR
Patent Number	: 7627312	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/049,800	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1219** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

HOFFMAN, WARNICK & D'ALESSANDRO LLC
THREE E-COMM SQUARE
ALBANY, NY 12207

In re Application of	:	
Joseph S.P. Fong	:	
Application No. 11/049,831	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. LDWS-0003	:	

This is a decision on the petition, filed January 15, 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 file a reply within the meaning of 37 CFR 1.113 to a final Office action mailed March 4, 2008. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 5, 2008. A Notice of Abandonment was mailed on November 14, 2008. In response, on January 15, 2009, the present petition was filed.

Petitioner seeks revival solely for obtaining copendency with a continuation application filed September 2, 2008, in that the necessary continuity was not maintained at that time.

In order to facilitate action, the petition to revive should include reference to the filing of a continuing application *and* a letter of express abandonment, conditional upon the granting of the petition and of a filing date to the continuing application. Nevertheless, the statement in the petition will be construed as a request to expressly abandon this application in favor of the continuing application. If this was not the intent of applicant, the Office should be promptly notified.

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 under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

As continuity has been established by this decision reviving the above-identified application, the application is again abandoned in favor of continuing Application No. 12/202,714, filed September 2, 2008.

It is noted that petitioner included a fee for a 3-month extension of time with the present petition. However, extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the $555 extension fee included with this petition is being refunded to counsel's credit card.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID E. ROOK
75 STATE ST. 14TH FLR
ALBANY, NY 12007

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

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OFFICE OF PETITIONS

In re Application of

ALLEN, Theresa M. et al.
Application No. 11/049,848
Filed: February 02, 2005
Attorney Docket No. **55325-8148.US09**

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 01, 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 Judy M. Mohr on behalf of all attorneys of record who are associated with customer No. 22918. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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: **THERESA M. ALLEN**
11223 72ND STREET
EDMONTON, ALBERTA, T6G OB4
CANADA

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

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

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JUL 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Kenneth Ma	:	
Application No. 11/049,905	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 15673US02	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 30, 2009.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed December 3, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 4, 2009. The Office mailed a Notice of Abandonment on June 26, 2009.

To establish non-receipt of an Office action, a petitioner:

> must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.[1]

In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the **firm**. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of 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).

On petition, petitioner has not submitted a copy of the master docket report for the firm. Rather, petitioner has only submitted a copy of the master docket report for attorney Roy Rhee.

While the showing of record is not presently sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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[1] MPEP 711.03(c).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

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

In re Application of	:	
Kenneth Ma	:	
Application No. 11/049,905	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 15673US02	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 30, 2009. The petition was filed as a petition in the alternative in a petition to withdraw the holding of abandonment, also filed on that same date.

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

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed December 3, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on March 4, 2009. The Office mailed a Notice of Abandonment on June 26, 2009. Applicant filed a petition to withdraw the holding of abandonment on June 30, 2009, which was dismissed in a decision mailed on July 29, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The petition fee of $1620 has been charged to Deposit Account No. 13-0017, as authorized.

The application is being forwarded to Group Art Unit 2185 to await applicant's submission of the Appeal Brief.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET
STE.1005
SEATTLE, WA 98101

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MAR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Gust H. Bardy	:	
Application No. 11/049,906	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 003.0449.US.CON	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cascadia Intellectual Property has been revoked by the assignee of the patent application on February 26, 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.

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

cc: PAULY, DEVRIES, SMITH & DEFFNER, LLC
PLAZA VII-SUITE 3000
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-1630

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS TX 75201-2980

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MAR 20 2008

OFFICE OF PETITIONS

In re Application of
Eric L. Hansen
Application No. 11/049,922
Filed: February 3, 2005
Attorney Docket No. **074835.0108 (PD 04E089)**

ON PETITION

This is a decision on the petition filed January 24, 2008 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed May 25, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned August 28, 2007. Accordingly, after the filing of the instant petition, an email notification was sent January 29, 2008 to the applicant to advise of the January 29, 2008 Notice of Abandonment.

All other requirements having been met , this matter is being referred to Technology Center 2612 for appropriate action on the amendment filed January 24, 2008.

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

---

[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)).

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PILLSBURY WINTHROP SHAW PITTMAN LLP
PO BOX 10500
MCLEAN VA 22102

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of :	
Theodore J. Schmidt, Anhui H. Liang:	DECISION ACCORDING STATUS
Application No. 11/049,924 :	UNDER 37 CFR 1.47(a)
Filed: February 3, 2005 :	
Attorney Docket No. 014271-0317557 :	

This is in response to the petition under 37 CFR 1.47(a), filed October 7, 2005.

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

The above-identified application was filed on February 3, 2005, without an executed oath or declaration. Accordingly, on April 8, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on October 7, 2005, made timely with a four month extension of time. Accompanying the petition was a declaration executed by inventor Theodore J. Schmidt, but with the signature block for inventor Anhui H. Liang left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

Rule 47 applicant has demonstrated that Liang was presented with a copy of the application papers on or about April 27, 2005, but to date has not signed the declaration.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2874 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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ANHUI H LIANG
110 OAK RIM CT #35
LOS GATOS CA 95032

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NOV 28 2005

OFFICE OF PETITIONS

In re Application of Theodore J. Schmidt, Anhui H. Liang Application No. 11/049,924 Filed: February 3, 2005 Title: Optical Transmission System Having Optimized Filter Wavelength Offsets	: : : : :	LETTER

Dear Mr. Liang:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff by

Cliff Congo
Petitions Attorney
Office of Petitions

Ross L. Franks
Pillsbury Winthrop LLP
2475 Hanover St
Palo Alto, CA 94301-1114
650-233-4790

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LEE & MORSE, PC
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

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OFFICE OF PETITIONS

In re Application of	:	
Hyung-Sok Yeo, et al.	:	
Application No. 11/049,946	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 249/542	:	FROM RECORD
	:	

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: MICHAEL A. CANTOR, ESQ.
CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103-3207

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

Banner & Witcoff, Ltd.
1100 13th Street, NW
Sutie 1200
Washington, DC 20005-4051

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Takeo Kawase et al.	:	
Application No. 11/049,974	:	DECISION ON PETITION
Filed: February 4, 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 December 23, 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 Christopher R. Glembocki and all attorneys/agents of record has been revoked by the assignee of the patent application on April 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the address of record 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

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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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MAY 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Yorimichi Dairoku et al	:	
Application No. 11/049,995	:	DECISION GRANTING PETITION
Filed: February 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 12480-000091/US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 4, 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 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MILLIPORE CORPORATION
290 CONCORD ROAD
BILLERICA MA 01821

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JUL 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Wilson Moya	:	
Application No. 11/050,002	:	DECISION ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. MCA-678 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed January 29, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 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 an Amendment, (2) the petition fee of $1,620.00 and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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

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

The application file is being referred to Technology Center AU 1792 for appropriate action on the concurrently filed amendment.

Joan Olszewski

Joan Olszewski
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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Joseph P. Lally
LALLY & LALLY, L.L.P.
P. O. BOX 684749
AUSTIN, TX 78768-4749

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DEC 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Larry Mason Ernst et al.	:	
Application No. 11/050,011	:	DECISION ON PETITION
Filed: February 2, 2005	:	
Attorney Docket No. BLD9 2004 0026 US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 01 November 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned due to Applicant's failure to timely file a proper reply to the office action mailed on 13 November 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, 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 Allen C. Ho (571) 272-6052.

This application is being referred to Technology Center AU 2861 for appropriate action by the Examiner in the normal course of business on the reply received.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Joseph P. Lally
100 Congress Avenue, Suite 1100
Austin, TX 78701

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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SEP 18 2008

In re Application of

ALLEN, Theresa M. et al.
Application No. 11/050,012
Filed: February 02, 2005
Attorney Docket No. **55325-8148.US10**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 01, 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 Judy M. Mohr on behalf of all attorneys of record who are associated with customer No. 22918. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application became abandoned for failure to reply to the Office action mailed October 23, 2007.

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: **THERESA M. ALLEN**
11223 72ND STREET
EDMONTON, ALBERTA T6G OB4
CANADA

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Juan Carlos A. Marquez
c/o Stites & Harbison PLLC
1199 North Fairfax Street
Suite 900
Alexandria, VA 22314-1437

Mail Date: 04/21/2010

Applicant	: Tatsuhiko Miyata	: DECISION ON REQUEST FOR
Patent Number	: 7668911	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,015	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1138** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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IP LEGAL DEPARTMENT
TYCO FIRE & SECURITY
ONE TOWN CENTER RD
BOCA RATON FL 33486

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OFFICE OF PETITIONS

In re Application of	:	
Wilbert L. Blake, David M. Salcedo	:	DECISION ACCORDING STATUS
Application No. 11/050,028	:	UNDER 37 CFR 1.47(a)
Filed: February 3, 2005	:	
Attorney Docket No. C4-1229	:	

This is in response to the petition under 37 CFR 1.47(a), filed September 15, 2005.

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

The above-identified application was filed on February 3, 2005, without an executed oath or declaration. Accordingly, on March 14, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on September 15, 2005, made timely with a four month extension of time and by including a Certificate of Mailing dated September 12, 2005. Accompanying the petition was a declaration executed by inventor David M. Salcedo, but not executed by inventor Wilbert L. Blake.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has demonstrated that Blake was presented with a copy of the declaration. The record does not make it clear that Blake was ever presented with the application papers. However, as asserted in the petition, Blake made a request that he not be further contacted.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2131 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILBERT L BLAKE
1400 NW 9TH AVE NO 19
BOCA RATON FL 33486

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NOV 10 2005

OFFICE OF PETITIONS

In re Application of :
Wilbert L. Blake and David M. Salcedo :
Application No. 11/050,028 :
Filed: February 3, 2005 :
Title: System and Method for Remote : LETTER
Access to Security Event Information

Dear Mr. Blake:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Frank A. Cona
Tyco Fire & Security
One Town Center Rd
Boca Raton, FL 33486
561-981-4366

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/16/07

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7109333

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

SPE

1624
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 10/16/07

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction on Patent No.: 7109333

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

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

Valerie Jackson

Thank You For Your Assistance

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

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

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

Comments:

correction of typographical errors + inventor ship only - No new matter has been added - Scope of claims remains the same

JAMES O. WILSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
SPE

1624
Art Unit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee: Carter *et al.*

Patent No.: 7,109,333 Issued: September 19, 2006

Serial No.: 11/050,033

For: HETEROCYCLIC COMPOUNDS

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.322 and 1.323

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

Sir:

Enclosed please find a certificate of correction in connection with the above-identified patent. It is respectfully requested that a Certificate of Correction be issued for the above-identified patent, in accordance with 37 C.F.R. § 1.322 and 1.323.

The patentees request correction of the following errors, which were made by the Patent Office:

(1) The published patent lists five inventors. However, two of the listed inventors, Stephen Barry Guntrip and Kathryn Jane Smith, were deleted as inventors under 37 CFR §1.48(b) in patentees' 1.312 amendment of May 22, 2006, due to deletion of claimed subject matter during the course of prosecution of the patent family. The amendment was indicated as entered by the Examiner in the Office Communication of July 19, 2006. Accordingly, the attached Certificate of Correction lists Malcolm Clive Carter; George Stuart Cockerill; and Karen Elizabeth Lackey as inventors.

(2) In the specification, there are several errors that were introduced at the time of publication or were a result of the patentees' mistake. Patentee's errors occurred in good faith and correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. Such corrections follow:

Col. 1, line 49, the term "eg" should be –e.g.--.
Col. 2, line 9, the term "Ick" should be –Ick--.
Col. 2, line 12, the term "Ick" should be –Ick--.
Col. 2, line 39, the term "Ick" should be –Ick--.
Col. 2, line 42, the term "Ick" should be –Ick--.
Col. 4, line 30, the term "Ick" should be –Ick--.
Col. 32, line 57, the term "Ick" should be –Ick--.
Col. 32, line 67, the term "Ick" should be –Ick--.
Col. 35, line 47, the term "tic" should be –tlc--
Col. 36, line 14, the term "tic" should be –tlc--.
Col. 36, line 60, the term "tic" should be –tlc--.
Col 78, line17, the term "g-phosphate" should be --γ-phosphate--.

The Certificate of Correction corrects these errors.

The mistakes appearing in the patent are set forth on the Certificate of Correction enclosed herewith, with an additional copy thereof.

Please charge any shortage in the fees, or credit any overpayment to Deposit Account No. 07-1392.

John L. Lemanowicz
Registration No. 37,380
Attorney for Patentee

Dated: Sept 11, 2007

GlaxoSmithKline
Corporate Intellectual Property Dept.
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709-3398
Telephone: (919) 483-1467
Facsimile: (919) 483-7988

PTO/SB/44 (07-07)
Approved for use through 07/31/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,109,333 Page 1 of 1

APPLICATION NO. : 11/050,033

ISSUE DATE : September 19, 2006

INVENTOR(S) : Malcolm Clive Carter, George Stuart Cockerill, and Karen Elizabeth Lackey

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

(75) Inventors: Malcolm Clive Carter, Ware (GB); George Stuart Cockerill, Bedford (GB); and Karen Elizabeth Lackey, Hillsborough, NC (US).

Col. 1, line 49, the term "eg" should be –e.g.--.

Col. 2, line 9, the term "Ick" should be –Ick--.

Col. 2, line 12, the term "Ick" should be –Ick--.

Col. 2, line 39, the term "Ick" should be –Ick--.

Col. 2, line 42, the term "Ick" should be –Ick--.

Col. 4, line 30, the term "Ick" should be –Ick--.

Col. 32, line 57, the term "Ick" should be –Ick--.

Col. 32, line 67, the term "Ick" should be –Ick--.

Col. 35, line 47, the term "tic" should be –tIc--.

Col. 36, line 14, the term "tic" should be –tIc--.

Col. 36, line 60, the term "tic" should be –tIc--.

Col 78, line17, the term "g-phosphate" should be –γ-phosphate--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

John L. Lemanowicz, Reg. No. 37,380
GlaxoSmithKline
Five Moore Drive, PO Box 13398
Research Triangle Park, NC 27709-3398

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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2600 CENTURY SQUARE
1501 FOURTH AVENUE
SEATTLE, WA 98101-1688

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OFFICE OF PETITIONS

In re Application of	:	
Paul Pfaff et al	:	
Application No. 11/050,034	:	DECISION ON PETITION
Filed: February 3, 2005	:	TO WITHDRAW
Attorney Docket No. 68920-9	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2005.

The request is **APPROVED**.

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

The request was signed by Kevin L. Russell on behalf of all attorneys of record.

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

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

There is an outstanding Office action mailed March 20, 2006 that requires a reply from the applicant.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Paul Pfaff
Attofemto, Inc.
14535 West Lake Drive, Suite A-1
Lake Oswego, OR 97035

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Sang Hoo Dhong	: DECISION ON REQUEST FOR
Patent Number	: 7617338	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,040	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	
Huafeing Wen	
Application No. 11/050,050	DECISION ON PETITION
Filed: February 3, 2005	TO WITHDRAW
Attorney Docket No. 584882002000	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 12, 2006.

The request is **APPROVED**.

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

Charles D. Holland signed the request on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ORTHOCLEAR HOLDINGS, INC.
THE MILL MALL, PO BOX 92,
WICKHAMS CAY 1, ROAD TOWN
TORTOLA, BRITISH VIRGIN ISLANDS

cc: TOM COUNTS
PAUL HASTINGS
55 SECOND STREET
TWENTY-FOURTH FLOOR
SAN FRANCISCO, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/050,050	02/03/2005	Huafeng Wen	584682002000

CONFIRMATION NO. 2777

OC000000021937483

OC000000021937483

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 01/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington DC 20005

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
WEN, Huafeng	:	
Application No. 11/050,050	:	DECISION ON PETITION
Filed: February 03, 2005	:	TO WITHDRAW
Attorney Docket No. **71784.04301.UTL1**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 23, 2009.

The request is **APPROVED**.

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

The request was signed by Martin R. Bader on behalf of all attorneys of record who are associated with customer No. 36183. 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 Huageng Wen at the address indicated below.

There is an outstanding Office action mailed May 06, 2009 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **HUAFENG WEN**
2117 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Huafeing Wen	:	
Application No. 11/050,051	:	DECISION ON PETITION
Filed: February 3, 2005	:	TO WITHDRAW
Attorney Docket No. 584682001900	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 12, 2006.

The request is **APPROVED**.

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

Charles D. Holland signed the request on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn.

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

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

There are no pending office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ORTHOCLEAR HOLDINGS, INC.
THE MILL MALL, PO BOX 92,
WICKHAMS CAY 1, ROAD TOWN
TORTOLA, BRITISH VIRGIN ISLANDS

cc: TOM COUNTS
PAUL HASTINGS
55 SECOND STREET
TWENTY-FOURTH FLOOR
SAN FRANCISCO, CA 94105

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/050,051	02/03/2005	Huafeng Wen	584682001900

CONFIRMATION NO. 2779

OC000000021981444

OC000000021981444

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW
DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND, PA 17557

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APR 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Orlando Lombardo et al	:	
Application No. 11/050,056	:	DECISION ON PETITION
Filed: February 3, 2005	:	TO WITHDRAW
Attorney Docket No. 17959	:	FROM RECORD
	:	

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

The request is **NOT APPROVED**.

A review of the file record indicates that Stephen Michael Patton does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
David Bowen	:	
Application No. 11/050,099	:	DECISION ON PETITION
Filed: February 3, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 311101	:	

This is a decision on the petition, filed October 26, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 3, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of

such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request, which sets, forth the projected publication date of May 10, 2007 was mailed on January 30, 2007.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on September 22, 2006. 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 is being 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.

This application is being forwarded to Publishing Division to await a reply to the Notice of Publication Fee Due mailed on January 31, 2007.

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

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/050,099	02/03/2005	Bowen	311101

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

DATE MAILED: 01/31/2007

NOTICE OF PUBLICATION FEE DUE

The above-identified application was filed on or after November 29, 2000 and a nonpublication request in compliance with 37 CFR 1.213 was included with the application on filing.

Since the application has been allowed, a publication fee is due.

The fee due is $300. No small entity discount is available. See 37 CFR 1.18(d).

The payment of publication fee should be mailed to:

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

Alternatively, an authorization to charge the publication fee to a deposit account or payment by credit card (form PTO-2038) may be submitted via facsimile transmission to (571) 273-2885.

The publication fee must be submitted within THREE MONTHS from the mailing date of this notice to avoid abandonment of the application. No extensions of time under 37 CFR 1.136(a) or (b) are available. If publication of the application does not occur, applicant may file a request for a refund after the patent issues. *See* 37 CFR 1.211(e).

Questions relating to this Notice should be directed to the patent publication hotline at (703) 605-4283 or by e-mail to pgpub@uspto.gov.

A copy of this notice should be returned with any reply.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY & LARDNER
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Chell and Zimm :
Application No. 11/050,109 :
Filed: February 3, 2005 :
Attorney Docket No. 012890-0176 :

ON PETITION

This is a decision on the petition filed under 37 CFR 1.10(d) to accord the application a filing date of February 3, 2005.

The petition is **granted**.

The record reflects that the subject application arrived at the Patent and Trademark Office in an Express Mail envelope with Express Mail label EV425129976USUS showing a date-in of February 4, 2005. Petitioner filed the instant petition on June 6, 2005, asserting that the application should have been accorded a filing date of February 3, 2005, as that was date the application was deposited with the Express Mail service.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

> 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 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 within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

All of the above requirements have been met. The application will, therefore, be accorded a filing date of February 3, 2005.

It is noted that petitioner also requests that the filing receipt be corrected to reflect the priority claim to provisional application 60/541,484, filed February 3, 2004. It is further noted that the claim of priority was made on the Application Data Sheet filed with the original application papers. It appears that petitioner has made a proper claim for priority; however, the undersigned was not able to correct the filing receipt. As petitioner knows, a nonprovisional application claiming priority to a provisional application must be filed within one year after the provisional application. The subject nonprovisional application currently has a filing date of February 4, 2005, and the Office of Initial Patent Examination can only physically change the filing date in the Office computer records. Because the filing date accorded the nonprovisional application is still February 4, 2005, the Office computer system will not allow the undersigned to enter the claim of priority to the provisional application because its filing date is currently more than one year before the subject nonprovisional application. The Office of Initial Patent Examination will have to make this correction and issue the corrected filing receipt.

The application file is being forwarded to the Office of Initial Patent Examination where the application will be accorded a filing date of February 3, 2005, the priority data found on the Application Data Sheet will be entered, and a corrected filing receipt generated.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
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PALO ALTO, CA 94304-1018

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SEP 2 4 2008

OFFICE OF PETITIONS

In re Application of
Lewis et al.
Application No. 11/050,111
Filed: February 2, 2005
Attorney Docket No. 306812002910

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2005.

The request 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 October 24, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APR 14 2006

OFFICE OF PETITIONS

HAROLD W HOBDAY
124 5TH ST
GALT CA 95632

In re Application of	:	
Harold William Hobday	:	
Application No. 11/050,125	:	ON PETITION
Filed: February 3, 2005	:	
Title: Improved Clamping Device	:	

This is a decision on the petition to revive under 37 CFR 1.137(a), filed March 6, 2006.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts of Nonprovisional Application mailed March 11, 2005. This Notice set a shortened period for reply of two (2) months to submit $220 fee. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been timely received, the above-identified application became abandoned on May 12, 2005. Applicant paid the $220 on December 19, 2005, after the application had already gone abandoned. A Notice of Abandonment was mailed on January 9, 2006.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR 1.17(l); and (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The instant petition lacks items (2) and (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable: "The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."[1]

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.[2]

With regards to item (3), petitioner states that he did not receive the March 11, 2005 Notice to File Missing Parts of Nonprovisional Application. To establish nonreceipt of an Office action, a petitioner must: 1) include a statement that the Office action was not received; 2) attest to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and 3) include a copy of the **docket record** where the nonreceived Office action would have been entered had it been received and docketed.[3] A proper docket report consists of a "docket record where the nonreceived Office action would have been entered had it been received and docketed."[4] "For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket record showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted..."[5]

However, as petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. In that case, if petitioner seeks to establish that he did not receive the Notice to File Missing Parts of Nonprovisional Application, petitioner must explain his system for keeping track of patent matters; where he keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the March 11, 2005 Notice to File Missing Parts of Nonprovisional Application was not entered into that system. The Office would like to see documentary evidence and records as may exist which would substantiate that petitioner exercised due diligence with respect to his most important business.

---

[1] In re Mattulath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

[2] See Haines, 673 F. Supp. at 317, 5 U.S.P.Q. 2d at 1132; Vincent v. Mossinghoff, 230 U.S.P.Q. 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 U.S.P.Q. 1091 (D.D.C. 1981); Potter v. Dann, 201 U.S.P.Q. 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[3] See MPEP 711.03(c)(II).

[4] MPEP 711.03(c)(II) (emphasis added).

[5] Id.

With regards to item (2), petitioner must submit the $250 petition fee for a petition to revive an unavoidably abandoned application.

Alternative Venue and Other Matters:

While the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a petition pursuant to **37 CFR 1.137(b)** on the basis of **unintentional** delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m), currently $750 for a small entity; and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. A blank copy of the form for a petition under 37 CFR 1.137(b) is enclosed for petitioner's convenience.

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: PTO/SB/64 (2 pages)
Statement of the Privacy Act (1 page)

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.

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

HAROLD W HOBDAY
124 5TH ST
GALT CA 95632

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Harold William Hobday	:	
Application No. 11/050,125	:	ON PETITION
Filed: February 3, 2005	:	
Title: Improved Clamping Device	:	

This is a decision on the renewed petition to revive under 37 CFR 1.137(a), filed May 22, 2006.

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

The above-identified application became abandoned for failure to timely file a reply in response to the Notice to File Missing Parts of Nonprovisional Application mailed March 11, 2005. This Notice set a shortened period for reply of two (2) months to submit $220 fee. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been timely received, the above-identified application became abandoned on May 12, 2005. Applicant paid the $220 on December 19, 2005, after the application had already gone abandoned. A Notice of Abandonment was mailed on January 9, 2006. Applicant filed a petition to revive under 37 CFR 1.137(a) on March 2, 2006. However, the petition was dismissed in a decision mailed on April 14, 2006.

With the instant petition, pro-se petitioner has successfully demonstrated non-receipt of the Notice to File Missing Parts. Petitioner stated that Notice was not received, attested to the fact that a search of records indicated no receipt of the Notice, and explained his system for keeping track of his correspondence from the Office. In support thereof, petitioner has included a photograph of his file box where original correspondence from the Patent Office is kept.

The matter is being forwarded to the Office of Initial Patent Examination, for pre-examination processing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
WEN, Huafeng	:	
Application No. 11/050,126	:	DECISION ON PETITION
Filed: February 03, 2005	:	TO WITHDRAW
Attorney Docket No. **584682001800**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006.

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

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on March 09, 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **PAUL, HASTINGS, JANOFSKY & WALKER LLP**
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

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.
11/050,144	02/02/2005	Jonathan Foltz		2520

7590 04/15/2008

Stephen E. Feldman, P.C.
Suite 701
12 East 41st Street
New York, NY 10017

EXAMINER
NGUYEN, ANH TUAN TUONG

ART UNIT	PAPER NUMBER
3731	

MAIL DATE	DELIVERY MODE
04/15/2008	PAPER

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

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

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Stephen E. Feldman, P.C.
Suite 701
12 East 41st Street
New York NY 10017

In re Application of: Foltz, Jonathan et al Serial No. 11/050,144 Filed: Feb. 2, 2005 Title: CERVICAL CANAL DILATOR	:	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition to withdrawal holding of abandonment filed on Dec. 10, 2007. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on Apr. 2, 2007 which set forth a three-month period for reply. Notice of abandonment was mailed on Nov. 14, 2007.

Petitioner asserts that a timely response to the Non-Final Rejection was submitted on Oct. 2, 2007. The petitioner has supplied a copy of the amendment as well as a copy of certificate of mail dated Oct. 2, 2007 and an acknowledgement post-card receipt indicating a receipt date of Oct. 9, 2007. However, as correctly pointed out in the petition, the serial number of the amendment was mistyped as SN 11/040,114 instead of the correct serial number SN 11/050,144. There was a petition of three-month extension of time fee paid according to USPTO Palm system in the incorrect file SN11/040,114.

As the petitioner has provided convincing evidence that a timely reply to the Non-Final Office action was submitted on Oct. 2, 2007 and received by USPTO on Oct. 9, 2007. There is no abandonment in fact.

In view of the above, the Notice of Abandonment mailed Nov. 14, 2007 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3731 for appropriate action.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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MCANDREWS HELD & MALLOY, LTD
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OFFICE OF PETITIONS

In re Application of

James A. Kitzmiller

Application No. 11/050,164

Filed: February 2, 2005

Attorney Docket No. 18227US01

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed April 9, 2008.

The petition is **granted**.

This application was held abandoned January 2, 2008, after no reply was received to the non-final Office action mailed October 1, 2007. The notice set forth a 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 January 2, 2008. A Notice of Abandonment was mailed April 15, 2008. The instant petition was filed on April 9, 2008. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same[1].

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

[1] A review of the application file revealed that a Power of Attorney was filed on December 21, 2006, granting power of attorney to customer number 23446 and changing the correspondence address to the address associated therewith. The USPTO entered the customer number incorrectly resulting in the non-final Office action being sent to the wrong address.

The application file is being forwarded to Technology Center 3600, GAU 3682 for further processing including remailing of the non-final Office action mailed October 1, 2007, and resetting of the time period for reply.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Wolfe et al.	:	
Patent Number: 7,504,216	:	ON APPLICATION FOR
Issue Date: 03/17/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/050174	:	
Filing or 371(c) Date: 02/02/2005	:	
Attorney Docket Number: 07917-273001	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), filed May 18, 2009. Patentee requests that the determination of patent term adjustment be corrected from 268 days to 677 days.

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

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,504,216 with a patent term adjustment of 268 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment as interpreted by the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that as outlined in Wyeth, Patentees are entitled to "A Delay" (delays under 35 U.S.C.§ 154(b)(1)(A), and "B Delays" (delays under 35 U.S.C. § 154(b)(1)(B), to the extent that they do not overlap. Accordingly, Patentees assert that the correct patent term adjustment for this patent is 677 days (the sum of 464 days of "A Delay and 409 days of "B Delay reduced by 196 days of Applicant delay).

The 409-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 2, 2005, and issuing on March 17, 2009, three (3) years and 409 days later. Patentees assert that in addition to this 409-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 464 days. This 464-day period is the result of a period of delay of 464 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 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, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office agrees that as of the issuance of the patent on March 17, 2009, the application was pending three years and 409 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 464 days is correct. At issue is whether patentees should accrue 409 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 464 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 409 days of delay in issuing the patent overlap with the 464 days of examination delay under 37 CFR 1.702(a). 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

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

overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(1)(A) is the entire period during which the application was pending before the Office, February 2, 2005, to the date the patent issued on March 17, 2009. Prior to the issuance of the patent, 464 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 409 days for Office delay in issuing the patent overlap with the 464 days of Office examination delay. During that time, the issuance of the patent was delayed by 464 days, not 409 days + 464 days. The Office took 14 months and 464 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 464 days of Office examination delay and the time allowed within the time frames for processing and examination, the application issued three years and 409 days after its filing date. The Office did not delay 464 days and also delay an additional 409 days. Accordingly, 464 days of patent term adjustment was properly entered because the period of delay of 409 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 464 days attributable to grounds specified in § 1.702(a). Entry of both periods is not warranted.

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 M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
Wolfe et al.	:	DECISION ON RESPONSE
Patent Number: 7,504,216	:	TO DECISION ON
Issue Date: 03/17/2009	:	APPLICATION FOR
Application No. 11/050174	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/02/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
07917-273001	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on January 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred seventy-seven (677) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred seventy-seven (677) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred seventy-seven (677) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,504,216 B2

DATED : **March 17, 2009**

INVENTOR(S) : Wolfe et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 268 days.

Delete the phrase "by 268 days" and insert – by 677 days--

Please increase PTA by 409 days for B delay. There is no overlap. Attached are the date calculator sheet and PALM worksheet.

Need to charge fee.

Other considerations:

B Max = 409
B Ded = 0
B Net = 409
Overlap = 0
A delay = 464
C delay = 0
App delay = 196

A	+ B Net	+ C	– Overlap	– App Delay	= Total
464	+ 409	+ 0	– 0	– 196	= 677

Applicant filed a reply to a Notice 3 months and 3 days after the mailing of the notice. We missed the reduction. Not raised and not pushed by the petition to review the entire record.

PALM INTRANET

Day : Tuesday
Date: 4/27/2010
Time: 12:50:55

PTA Calculations for Application: 11/050174

Application Filing Date:	02/02/2005	PTO Delay (PTO):	464
Issue Date of Patent:	03/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	196
Post-Issue Petitions:	0	Total PTA (days):	268
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70.5	02/25/2009	PTA 36 MONTHS			
70	03/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
69	02/10/2009	EXPORT TO FINAL DATA CAPTURE			
68	02/09/2009	DISPATCH TO FDC			
67	02/05/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
66	02/02/2009	RESPONSE TO REASONS FOR ALLOWANCE			
64	02/02/2009	ISSUE FEE PAYMENT VERIFIED			
63	02/02/2009	ISSUE FEE PAYMENT RECEIVED			
62	01/22/2009	FINISHED INITIAL DATA CAPTURE			
61	11/17/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
60	11/04/2008	EXPORT TO INITIAL DATA CAPTURE			
59	11/04/2008	ELECTRONIC REVIEW			
55	11/03/2008	MAIL NOTICE OF ALLOWANCE			
54	10/27/2008	ISSUE REVISION COMPLETED			
53	10/24/2008	DOCUMENT VERIFICATION			
52	10/27/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
51	10/27/2008	CASE DOCKETED TO EXAMINER IN GAU			
50	10/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
49	10/27/2008	NOTICE OF ALLOWABILITY			
48	09/16/2008	CASE DOCKETED TO EXAMINER IN GAU			
47	08/21/2008	DATE FORWARDED TO EXAMINER			
46	07/24/2008	RESPONSE AFTER NON-FINAL ACTION		30	43
45	07/24/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	08/18/2008	CASE DOCKETED TO EXAMINER IN GAU			
43	03/24/2008	MAIL NON-FINAL REJECTION			
42	03/20/2008	NON-FINAL REJECTION			
41	09/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	01/21/2008	DATE FORWARDED TO EXAMINER			
35	01/07/2008	RESPONSE TO ELECTION / RESTRICTION FILED		89	33
34	01/07/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	07/10/2007	MAIL RESTRICTION REQUIREMENT	464		-1

32	06/25/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
31	02/23/2007	CORRESPONDENCE ADDRESS CHANGE			
30	02/15/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
29	02/02/2006	CASE DOCKETED TO EXAMINER IN GAU			
27	09/09/2005	MISCELLANEOUS INCOMING LETTER			
26	06/24/2005	PRELIMINARY AMENDMENT			
25	09/22/2005	REFERENCE CAPTURE ON IDS			
24.7	09/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	09/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	09/22/2005	APPLICATION RETURN FROM OIPE			
22	09/22/2005	APPLICATION IS NOW COMPLETE			
21	09/22/2005	APPLICATION RETURN TO OIPE			
20	09/22/2005	APPLICATION DISPATCHED FROM OIPE			
19	09/22/2005	APPLICATION IS NOW COMPLETE			
18	09/06/2005	ADDITIONAL APPLICATION FILING FEES		77	6
17	09/06/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
16	09/16/2005	CORRESPONDENCE ADDRESS CHANGE			
15	09/16/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
14	08/02/2005	SEQUENCE ERRORS			
13	06/24/2005	ADDITIONAL APPLICATION FILING FEES not raised		3	
12	06/24/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
10	06/21/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
9	06/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	06/21/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
7	07/07/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
6	03/21/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	02/27/2005	CLEARED BY OIPE CSR			
2	02/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/02/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

BMAX = 409
Bclcd = 0
BNet = 409
Overlap = 0

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.
Back to OASIS | Home page

A = 464
C = 0
App = 196

A + BNet + C - Overlap - App = TOT
464 + 409 + 0 - 0 - 196 = 677

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/050,226	02/04/2005	Masakuni Osoegawa	265531US2SCONT	3008

7590 03/06/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
HINES, ANNE M

ART UNIT	PAPER NUMBER
2879	

NOTIFICATION DATE	DELIVERY MODE
03/06/2008	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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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

Mail Date: 04/21/2010

Applicant	: Tomohiro Saito	: DECISION ON REQUEST FOR
Patent Number	: 7604885	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,227	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAY - 3 2007
TECHNOLOGY CENTER 2800

Harness, Dickey & Pierce, PLC
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of	:	**DECISION ON REQUEST TO**
Satoshi KIMURA, *et al.*	:	**PARTICIPATE IN PATENT**
Application No.: 11050254	:	**PROSECUTION HIGHWAY**
Filed: February 3, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 9319S-001032	:	**TO MAKE SPECIAL UNDER**
For: LIQUID CRYSTAL OPTICAL ELEMENT AND TEST METHOD FOR ITS BOUNDARY	:	**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 2, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

DISCUSSION

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[1]

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUN 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael R. SAMUELS et al.	:	
Application No. 11/050,264	:	DECISION ON PETITION
Filed: February 03, 2005	:	
Attorney Docket No. PA-085.11090-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 31, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed June 14, 2007 and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 17, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the notice of Non-Compliance Office action of June 14, 2007 is accepted as having been unintentionally delayed.

The application file is being referred to Technology Center AU 1794 for appropriate action on the concurrently filed response.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of Joseph Sorensen Application No. 11/050,274 Filed: February 3, 2005 Attorney Docket No. 10385-7	: : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 14, 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 attorneys/agents associated with customer number 00757. 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).

Joseph A. Yosick signed the request on behalf of all attorneys of record.

Joseph A. Yosick and all attorneys/agents associated with application have been withdrawn.

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

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

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Buoci
Petitions Examiner
Office of Petitions

cc: Joseph Sorensen
320 Chelsea Lane
Cambria, California 93428

Cc: Rick Case, NITE-IZE
5735 Arapahoe Avenue
Boulder, Colorado 80303

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PATTON BOGGS LLP
1801 CALFORNIA STREET
SUITE 4900
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Joseph Sorensen	: DECISION ON REQUEST FOR
Patent Number	: 7636986	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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MAR 01 2010

In re Application of	:	
Sameh Mesallum	:	DECISION ON PETITION
Application No. 11/050,284	:	TO WITHDRAW
Filed: February 3, 2005	:	FROM RECORD
Attorney Docket No. 102078-0002C2	:	

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 9, 2009.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioner(s) were appointed via registration numbers. Therefore, any subsequent request must withdraw all practitioner(s) of record in the same manner as appointed; by providing registration numbers of the appointed practitioners.

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

There are no outstanding Office actions that require a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

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APR 28 2010

OFFICE OF PETITIONS

In re Application of Sameh Mesallum Application No. 11/050,284 Filed: February 3, 2005 Attorney Docket: 102078-002C2	: : : : :	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 12, 2010.

The request is **APPROVED**.

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

The request was signed by John F. McKenna, on behalf of all practitioners of record.

All practitioners of record have been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Notice of Allowance and Fee(s) due mailed March 15, 2010, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: SAMEH MESALLUM
826 WILLARD STREET
QUINCY, MA 02169

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/050,284	02/03/2005	Sameh Mesallum	102078-0002C2

CONFIRMATION NO. 2283

POWER OF ATTORNEY NOTICE

24267
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

OC000000041325355

Date Mailed: 04/27/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2010.

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

/atkelley/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 13, 2007

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No. 11/050286 patent no.7120462

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

SPE

2618
Art Unit

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JJGJr: 06-06

Paper No: __

CARLTON FIELDS, PA
1201 WEST PEACHTREE STREET
3000 ONE ATLANTIC CENTER
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of :
Candler :
Application No. 11/050,294 :
Filed: 3 February, 2005 :
Attorney Docket No.: 49673.21818US :

DECISION

This is a decision on the petition under 37 C.F.R. §1.10, filed on 26 April, 2005, and seeking for the above-identified application a filing date of 3 February, 2005, rather than the presently accorded filing date of 4 February, 2005.

The Office regrets the delay in addressing this matter, however, it is noted that: this matter was received by the Attorneys in the Office of Petitions only at this writing;

NOTES:

Petitioner is reminded that an inquiry to the US Postal Service (USPS) Track & Confirm website (http://www.usps.com/shipping/trackandconfirm.htm) and the printing out of results of inquiries made there within three days of the expected delivery date may provide a "paper trail" such as could be required and offered in the instant matter.

Moreover, there is no indication that Petitioner has sought to file with the Office a Status Inquiry since the filing of the instant petition, and 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).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The controlling regulations are set forth at under 37 C.F.R. §1.10.[1]

---

[1] The regulations at 37 C.F.R. §1.10 provide:

§ 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 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.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(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 toAddressee" 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.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(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.

[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]

The record reflects that:

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EV560198366US, was received by the Office and given a filing date of 4 February, 2005;

- with the instant petition Petitioner provided, *inter alia*, (a) what is averred to be a true copy of the USPS Express Mail Label No. EV560198366US with the hand-written "date in" of "2 [-] 4 [-] 05," suggesting that it was received by the USPS on 4 February, 2005, however, (b) Petitioner avers that he deposited the package in question with the USPS on 3 February, 2005, and that he has submitted the pertinent section of a running log of USPS Express Mail mailings which came into existence within one business day of the transmittal and said section indicates that the package transmitted bearing the USPS Express Mail Label No. EV560198366US was transmitted on 3 February, 2005;

- while further, a request by the Office to the USPS Track & Confirm website referenced above provides the following information: "Acceptance ATLANTA GA 30320 02/03/05 7:44pm" for the package transmitted bearing the USPS Express Mail Label No. EV560198366US.

Accordingly, the petition hereby is **granted**; the petition fee is not waived because the error was not that of the Office.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 3 February, 2005, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 3 February, 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

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

KRAGULJAC & KALNAY
4700 ROCKSIDE ROAD
SUMMIT ONE, SUITE 510
INDEPENDENCE, OH 44131

Mail Date: 04/20/2010

Applicant	: Daniel Elgort	: DECISION ON REQUEST FOR
Patent Number	: 7643864	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Sten R. Gerfast
1802 Valley Curve Road
Mendota Heights MN 55118

COPY MAILED
DEC 19 2006
OFFICE OF PETITIONS

In re Application of :
Gerfast :
Application No. 11/050,354 : ON PETITION
Filed: February 4, 2005 :
Title: Internal Combustion Engine Without Oil :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 13, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of April 20, 2006. The final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application was held abandoned on July 21, 2006. This decision precedes the mailing of a Notice of Abandonment.

Petitioner contends that a reply to the final Office Action was mailed on April 29, 2006. Petitioner also states an advisory action was mailed on July 14, 2006. Petitioner request that the Holding of abandonment be withdrawn.

A review of the record shows that an advisory action was not issued in this application. It appears that petitioner is confusing this application with application no. 10/944,922. To the extent petitioner did submit a reply to the Office action on July 25, 2006, the Office does not show that a timely request for an extension of time was submitted. The last day for submission of a reply to the final Office action without an extension of time was July 20, 2006.

The fact that petitioner may have requested an interview with the examiner did not toll the time period to reply to the final Office Action.

Any request for withdrawal of the final rejection should be submitted in a separate request for each application pursuant to 37 CFR 1.4(c). All correspondence should clearly contain the application number for which it is directed.

Petitioner may wish to file a petition to revive 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
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Sten R. Gerfast
1802 Valley Curve Road
Mendota Heights MN 55118

COPY MAILED

JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Gerfast :
Application No. 11/050,354 : ON PETITION
Filed: February 4, 2005 :
Title: Internal Combustion Engine Without Oil :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed December 25, 2006.

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

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136. **However, petitioner is entitled to a renewed petition with regards to this decision if desired. Thereafter, there will be no further consideration to a renewed petition under 37 CFR § 1.181 which espouses the same arguments presented in the present petition and the petition filed on December 19, 2006.**

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of April 20, 2006. The final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application was held abandoned on July 21, 2006. A petition was dismissed December 19, 2006. A Notice of Abandonment was mailed on January 9, 2007.

Petitioner contends that a reply to the final Office Action was mailed on April 29, 2006. Petitioner also states an advisory action was mailed on July 14, 2006. Petitioner request that the Holding of abandonment be withdrawn. On renewed petition, petitioner

insist that a reply was submitted on July 18, 2006 to fax number (571) 273-4852.[1]

A review of application 10/994,922 shows that a reply to the April 20, 2006 final Office action was submitted and entered in application no. 11/050,354 on July 25, 2006. However, the Office is not in receipt of a request for extension of time for this application. A review of the fees submitted in application no. 10/944,922 shows that an extension of time was not submitted. It is not enough to submit an authorization to charge a credit card. An extension of time under 37 CFR 1.136(a) requires a petition for an extension and the appropriate fee provided for in 37 CFR 1.17. Submission of the fee set forth in §1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission.

Further review of the documents also shows that the located reply does not contain a certificate of mailing within the meaning of 37 CFR 1.8.[2] As such the reply submitted on July 25, 2006 was not timely.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition

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[1]The central facsimile number is (571) 273-8300. Replies to Office actions including after-final amendments that are transmitted by facsimile must be directed to the central facsimile number.

[2] Correspondence will be considered as being timely filed if:
The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$750.00 for a small entity**;

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

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $750.00 petition fee.

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

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

By facsimile: (571) 273-8300

By delivery service: (FedEx, UPS, DHL, etc.) U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building

401 Dulany Street
Alexandria, VA 22314

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUITER SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA, NE 68154

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OFFICE OF PETITIONS

In re Application of Levien et al. :
Application No. 11/050,401 : Decision on Petition
Filing Date: February 2, 2005 :
Attorney Docket No. 1204-003-004-000000 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 16, 2008, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed November 13, 2007, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was obtained and an amendment was filed March 28, 2007. However, the examiner determined the amendment was an improper reply to the final Office action as indicated in the Advisory Action mailed June 16, 2008.

Since, although a two-month extension of time was obtained, a proper reply was not filed to the November 13, 2007 Office action, the application became abandoned on Tuesday, April 14, 2008. A Notice of Abandonment was mailed June 18, 2008.

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 final Office action in the form of an amendment. Petitioner has submitted the required petition fee of $1,540. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Petitioner requests a refund of the petition fee if the petition is granted. However, the petition fee is a required component of petitions under 37 CFR 1.137(b) and is non-refundable.

Technology Center Art Unit 2618 will be informed of the instant decision and the examiner will review the amendment filed June 16, 2008, 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

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

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

Applicant	: Steve Pope	: DECISION ON REQUEST FOR
Patent Number	: 7610413	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,419	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

In re Patent of Kanzius	:	
Patent No. 7,510,555	:	DECISION ON APPLICATION
Issue Date: March 31, 2009	:	FOR RECONSIDERATION OF
Application No. 11/050,422	:	PATENT TERM ADJUSTMENT
Filing Date: February 3, 2005	:	
Attorney Docket No. 30274-04004	:	

This is in response to the "Application for Patent Term Adjustment Including Request for Reconsideration Under 37 CFR §1.705(d)" filed April 15, 2009. Patentee requests the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from two hundred sixty-seven (267) days to six hundred forty-eight (648) days.

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

The application matured into United States Patent No. 7,510,555 with a revised patent term adjustment of 267 days on March 31, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentee asserts the correct patent term adjustment is 648 days. Patentee asserts an increase in patent term adjustment of 381 days is appropriate which is 422 days of B Delay reduced by 41 days of overlap.

The application was filed February 3, 2005, and issued as a patent three years and 422 days later on March 31, 2009. Therefore, the Office agrees with patentee's assertion the number of days of B Delay in this case is 422 days.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay pursuant to 35 U.S.C. § 154(b)(1)(A) ("A Delay") and delay pursuant to 35 U.S.C. § 154(b)(1)(B) ("B Delay") to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

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

Patentee does not dispute that the total period of Office delay is the sum of the period of A Delay (549 days) and the period of B Delay (422 days) to the extent the periods of delay do not overlap. However, patentee asserts the period of overlap is 41 days. The Office does not agree with patentees' assertion. The Office contends the period of overlap is 422 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.[1]

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, February 3, 2005, to the date of issuance of the patent, March 31, 2009.[2]

The 422 days of B Delay overlaps with 422 of the 549 days of A Delay (508 days under 37 C.F.R. § 1.702(a)(1) and 41 days under 37 C.F.R. § 1.702(a)(6)).

Since the 422 days of B delay overlap with 422 days of A Delay, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

For the reasons previously discussed, the patent term adjustment remains 267 days.

---

[1] *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.

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

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

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Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, Ohio 44114

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In re Patent No. 7,510,555	:
Kanzius	: DECISION UPON REMAND AND
Issue Date: March 31, 2009	: RECONSIDERATION OF
Application No. 11/050,422	: PATENT TERM ADJUSTMENT
Filed: February 3, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 30274/04004	: TO ISSUE CERTIFICATE OF
Title: Enhanced Systems and	: CORRECTION
Methods for RF-Induced	:
Hyperthermia	

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

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by six hundred and forty-eight (648) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred and forty-eight (648) days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,510,555 B2

DATED : **March 3, 2009** **DRAFT**

INVENTOR(S) : Kanzius

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 267 days

Delete the phrase "by 267 days" and insert – by 648 days--

Day : Thursday
Date: 3/11/2010

PALM INTRANET

Time: 09:09:02

PTA Calculations for Application: 11/050422			
Application Filing Date:	02/03/2005	PTO Delay (PTO):	549
Issue Date of Patent:	03/31/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	282
Post-Issue Petitions:	0	Total PTA (days):	648
PTO Delay Adjustment:	381		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
107	03/11/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	381		
96.5	03/11/2009	PTA 36 MONTHS			
96	03/31/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
95	03/06/2009	EXPORT TO FINAL DATA CAPTURE			
94	03/05/2009	FINISHED INITIAL DATA CAPTURE			
93	03/05/2009	DISPATCH TO FDC			
92	02/23/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
91	02/23/2009	WORKFLOW - QUERY REQUEST - FINISH			
90	02/19/2009	TC RETURN TO PUBS			
89	01/16/2009	ISSUE FEE PAYMENT VERIFIED			
88	01/16/2009	WORKFLOW - DRAWINGS FINISHED		75	
87	01/16/2009	ISSUE FEE PAYMENT RECEIVED			
86	12/01/2008	PUBS CASE REMAND TO TC			
85	12/04/2008	WORKFLOW - QUERY REQUEST - BEGIN			
84	12/04/2008	TC RETURN TO PUBS			
81	11/14/2008	EMAIL NOTIFICATION			
80	11/14/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
78	11/10/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
74	11/03/2008	MAIL NOTICE OF ALLOWANCE	41		55
73	10/28/2008	ISSUE REVISION COMPLETED			
72	10/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		145	55
71	08/14/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			

70	05/28/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
69	10/28/2008	DOCUMENT VERIFICATION			
68	10/28/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	10/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
66	10/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
65	09/10/2008	NOTICE OF ALLOWABILITY			
62	08/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
59	05/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	07/31/2008	DATE FORWARDED TO EXAMINER			
57	07/11/2008	SUPPLEMENTAL RESPONSE			
56	07/14/2008	DATE FORWARDED TO EXAMINER			
55	05/23/2008	RESPONSE TO ELECTION / RESTRICTION FILED			
54	05/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	05/09/2008	MAIL RESTRICTION REQUIREMENT			
52	05/07/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
49	03/19/2008	DATE FORWARDED TO EXAMINER			
48	02/18/2008	RESPONSE AFTER NON-FINAL ACTION		31	42
47	02/18/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
46	10/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	10/15/2007	REFERENCE CAPTURE ON IDS			
44	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		31	38
43	10/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	10/18/2007	MAIL NON-FINAL REJECTION			
41	10/15/2007	NON-FINAL REJECTION			
40	09/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
39	09/20/2007	DATE FORWARDED TO EXAMINER			
38	09/14/2007	RESPONSE AFTER NON-FINAL ACTION			

37	09/14/2007	REFERENCE CAPTURE ON IDS			
34	09/14/2007	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
33	09/14/2007	SUBSTITUTE SPECIFICATION FILED			
32	09/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	08/24/2007	MAIL NON-FINAL REJECTION	508		-1
30	08/20/2007	NON-FINAL REJECTION			
28	05/01/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	11/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	03/24/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	05/01/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	01/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	06/19/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	06/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	11/28/2005	REFERENCE CAPTURE ON IDS			
18.7	11/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/16/2006	APPLICATION DISPATCHED FROM OIPE			
16	05/16/2006	APPLICATION IS NOW COMPLETE			
15	05/09/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
14	02/03/2005	CLAIM PRELIMINARY AMENDMENT			
5	05/09/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	02/22/2005	CLEARED BY OIPE CSR			
2	02/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/03/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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OFFICE OF PETITIONS

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

In re Application of :

LOPEZ, et al. :
Application No. 11/050,424 :
Filed: February 3, 2005 :
Attorney Docket No. **1863.041US1** :

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 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 Robin A. Chadwick on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 16, 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: **GABRIEL LOPEZ**
1105 DARTMOUTH STREET NE
ALBUQUERQUE, NM 87106

cc: **HENRY COLEMAN**
COLEMAN, SUDOL & SAPONE, PC
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

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OFFICE OF PETITIONS

R. NEIL SUDOL
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

In re Application of	:	
Gabriel Lopez et al	:	
Application No. 11/050,424	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 1863.041US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 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 May 12, 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 August 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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

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 Information Disclosure Statement and amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/050,424	02/03/2005	Gabriel Lopez	1863.041US1

CONFIRMATION NO. 7164

POWER OF ATTORNEY NOTICE

GABRIEL LOPEZ
1105 DARTMOUTH STREET NE
ALBUQUERQUE, NM 87106

OC000000040113182

Date Mailed: 02/18/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

- 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).

/idingle/

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
11/050,424	02/03/2005	Gabriel Lopez	1863.041US1

CONFIRMATION NO. 7164

POA ACCEPTANCE LETTER

R. NEIL SUDOL
COLEMAN SUDOL SAPONE, P.C.
714 COLORADO AVENUE
BRIDGEPORT, CT 06605-1601

OC000000040113386

Date Mailed: 02/18/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

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.

/idingle/

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

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WASHINGTON, DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Ruey J. Yu et al	:	
Application No. 11/050,434	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 59120.000073	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 6, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from both Inventors stating that they are over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 1614 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET NW, SUITE 300
WASHINGTON, DC 20001-5303

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Karl **JANSSON, et al.**	:	
Application No. 11/050,441	:	DECISION GRANTING PETITION
Filed: February 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **JANSSON6**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 1625 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Mail Date: 04/21/2010

Applicant	: Karl Jansson	: DECISION ON REQUEST FOR
Patent Number	: 7589208	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MARK J. YOUNG
MCGUIREWOODS
SUITE 3300
50 NORTH LAURA STREET
JACKSONVILLE, FL 32202

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OFFICE OF PETITIONS

In re Application of	:	
Heather S. Betzold	:	DECISION ON PETITION
Application No. 11/050,453	:	TO WITHDRAW
Filed: February 4, 2005	:	FROM RECORD
Attorney Docket No. 2035898-0002	:	

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 21, 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 Charles J. Gross on behalf of all the attorneys of record.

All attorneys/agents have been withdrawn as attorney or agent of record.

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.

This matter is being referred to Technology Center AU 3722.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier for

David Bucci
Petitions Examiner
Office of Petitions

cc: HEATHER S. BETZOLD
2320 MAPLE TURN ROAD
MARTINSVILLE, IN 46151

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Lei Chen	: DECISION ON REQUEST FOR
Patent Number	: 7571302	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,454	: OF WYETH
Filed	: 02/04/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CA 90071-1448

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OFFICE OF PETITIONS

In re Patent No. 7,383,704 :
Issue Date: June 10, 2008 :
Application No. 11/050,461 :
Filed: February 1, 2005 :
Attorney Docket No. **0VFA-109866** :

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed September 9, 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 Monica A. Graves at (571) 272-7253. 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.

Brian W. Brown
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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OFFICE OF PETITIONS

HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

Applicant: Pope 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. 11/050,476	:	WYETH
Filed: 2/3/2005	:	

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

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

Applicant	: John Kanzius	: DECISION ON REQUEST FOR
Patent Number	: 7627381	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,478	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **821** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 05/17/2010

Applicant : John Kanzius
Patent Number : 7627381
Issue Date : 12/01/2009
Application No : 11/050,478
Filed : 02/03/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **823** 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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YOUNG LAW FIRM
A PROFESSIONAL CORPORATION
4370 ALPINE ROAD SUITE 106
PORTOLA VALLEY CA 94028

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OFFICE OF PETITIONS

In re Application of
Steele
Application No. 11/050,552
Filed: February 4, 2005
Attorney Docket No. MARK5968
FOR: STAGE APPARATUS

: ON PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed February 17, 2005, requesting that the above-identified application be accorded a filing date of February 4, 2005.

Petitioner assumed that the Office accorded the above-identified application a February 7, 2005 filing date because an Office generated barcode affixed to the application's postcard receipt cited February 7, 2005 as the date of receipt of the application. However, the application was processed with an February 4, 2005 filing date.

Office records indicate that the Office of Initial Patent Examination mailed a filing receipt showing **February 4, 2005** as the filing date for the above-identified application on February 28, 2005.

As the filing date is correct, the petition under 37 CFR 1.10(c) is **dismissed as moot**. No petition fee has been or will be charged.

The application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571)272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No.

WILLIAM W. HAEFLIGER
201 S. LAKE AVE
SUITE 512
PASADENA CA 91101

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Alajajyan et al.	:	DECISION ON
Application No. 11/050,608	:	PETITION
Filed: February 2, 2005	:	
Attorney Docket No. 12,589	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed August 7, 2006.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed January 12, 2006. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. An amendment, made timely by an accompanying petition and extension of time for response within the first month, was filed on April 27, 2006. However, the reply was determined by the examiner to not place the application in condition for allowance (Advisory Action mailed May 31, 2006). No proper reply having been received and no further extension of time obtained the application became abandoned effective May 13, 2006. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114; paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 3654 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed August 7, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Date Mailed : December 24, 2009

Patent No. :7622303
Inventor : S.P. Seifke
Patent Issued :November 24, 2009
Title :METHODS FOR IDENITFYING PATIENTS AT RISK FOR LIFE THREATENING
:ARRHYTHMIAS

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) 37 CFR 1.322 and 1.323.

Accordingly, applicants request is denied due to non-compliance with filing requirements in regard formatting procedures for requesting a certificate of correction to the printed patent. To request further consideration for the proposed changes, applicant may resubmit a request under 37 CFR 1.322 and/or 1.323 which clearly identifies on the PTO-1050 form the point of reference as presented in the printed patent by use of column and line numbers as well as directives e.g. add, delete. (See col. 10, lines 35-46) clarity of action is required. For more detailed instructions concerning formatting and procedures for requesting corrections under 37 CFR 1.322/1.323 see MPEP 1485.

In view of the foregoing, applicants request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificate of Correction Branch. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756- 1541

Hahn & Voight PLLC
1012 14th Street, NW STE 620
Washington, DC 20005

/arg

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HAHN & VOIGHT-MEDTRONIC, INC. PATENT APPLICATIONS
1012 14TH STREET, NW SUITE 620
WASHINGTON DC 20005

In re Patent No. 7,622,303	: DECISION ON REQUEST
Issued: November 24, 2009	: FOR RECONSIDERATION
Application No. 11/050,611	: OF PATENT TERM ADJUSTMENT
Filed: February 3, 2005	: AND
Attorney Docket No. P 11348.00-MED-10002/US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(d) filed on January 11, 2010, requesting that the patent term adjustment be corrected from 756 to 1271 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred seventy-one days is **GRANTED.**

It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 816 days. The "B" delay period, the over three year period begins on February 3, 2008 and ends on November 24, 2009, considering the 145 days of overlap and is therefore 660 days. As such, the patent term adjustment is 1271 days (816 plus 660 minus 145 days minus 60 days for applicant delay).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred seventy-one (1271)** 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 : 7,622,303 B2

DATED : November 24, 2009

INVENTOR(S) : Orhan Soykan

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 (756) days

Delete the phrase "by 756 days" and insert – by 1271 days--

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Hahn & Voight-Medtronic, Inc. patent applications
1012 14th Street, NW Suite 620
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Orhan Soykan	: DECISION ON REQUEST FOR
Patent Number	: 7622303	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,611	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1786** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/050,618	02/02/2005	Thomas M. Salerno	SalernoT_P_1_05	9841

34442 7590 03/20/2008
PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA, NY 14059

EXAMINER
WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
3632	

NOTIFICATION DATE	DELIVERY MODE
03/20/2008	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):

law@patcostanzo.com

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FROM DIRECTORS OFFICE
MAR 19 2008
TECHNOLOGY CENTER 3600

PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA, NY 14059

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FROM DIRECTORS OFFICE
MAR 19 2008
TECHNOLOGY CENTER 3600

In re application of
SALERNO, THOMAS M.
Appl. No. 11/050,618
Filed: February 02, 2005
For: SAFETY STRAP

DECISION ON PETITION UNDER 37 CFR 1.181

This letter is in response to the communication filed January 12, 2008, which is being treated as a Petition to the Director under 37 CFR 1.181 for Supervisory Review of the Office action mailed December 17, 2007. The petition states that the Office action is not responsive to applicant's latest filed set of claims, and that the major rejecting reference does not teach or suggest the claimed invention.

The petition is **DISMISSED**.

A review of the file history shows that the examiner issued a non-final rejection on February 13, 2007. After receiving the above non-final office action, the applicant filed an amendment on May 14, 2007. In response to this amendment, the examiner then issued a final rejection July 26, 2007. In response to the above final rejection, the applicant filed an after final amendment on September 24, 2007, a request for reconsideration on October 16, 2007, and an after final amendment on November 6, 2007. All of these after final responses were addressed by the examiner in the form of Advisory Actions indicating that the after final amendments would not be entered because they raised new issues that would require further consideration and/or search. After filing the last after final amendment, the applicant filed a request for continued examination (RCE) on November 26, 2007. When the applicant filed the RCE, applicant also filed multiple papers including two sets of amended claims and two sets of response to arguments. In response to the RCE, the examiner then issued a non-final rejection on December 17, 2007. Finally, in response to the non-final rejection of December 17, 2007, the applicant filed the instant petition.

In the petition, applicant has argued extensively why the examiner's non-final rejection of December 17, 2007 is not proper due to the fact that the prior art references of record fail to disclose the claimed subject matter of each of the claims.

The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion

on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134) (MPEP 1201).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board.

Since there is a difference of opinion concerning the denial of patent claims because of prior art, the questions thereby raised in the petition are said to relate to the merits and are subject to the appeal procedure and therefore are not petitionable. Thus, the petition filed on January 12, 2008 is hereby dismissed.

Further in regards to applicant's assertion that the examiner's rejection of the claims are directed to the wrong set of claims, it should be pointed out, as stated above, that when applicant filed the RCE, applicant also filed two sets of claims and two sets of arguments. Although the applicant made an attempt to clearly point out which set of claims was to be examined, the record became unclear. Therefore, the examiner was not certain as to which set of claims to act upon and choose one set over the other.

Although the wrong set of claims was treated, the examiner did not err in treating those set of claims, since the claims treated were present in the file record at that time. Thus, for this reason and the reason set forth above, the instant petition is hereby dismissed.

In conclusion, the application will remain in its current status awaiting a response from applicant. The applicant's time will continue to run from the mailing date of the non-final rejection mailed on December 17, 2007. Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.

SUMMARY: The petition is **DISMISSED.**

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

BG/TL: 03/04/2008

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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.
11/050,618	02/02/2005	Thomas M. Salerno	SalernoT_P_1_05	9841

34442 7590 03/20/2008
PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA, NY 14059

EXAMINER
WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
3632	

NOTIFICATION DATE	DELIVERY MODE
03/20/2008	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):

law@patcostanzo.com

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FROM DIRECTORS OFFICE

MAR 19 2008

TECHNOLOGY CENTER 3600

PATRICIA M. COSTANZO
PATS PENDING
P.O. BOX 101
ELMA, NY 14059

In re application of
SALERNO, THOMAS M.
Appl. No. 11/050,618
Filed: February 02, 2005
For: SAFETY STRAP

DECISION ON PETITION UNDER 37 CFR 1.181

This letter is in response to the Petition to Director received November 26, 2007, and which will be treated as a Petition to the Director under 37 CFR 1.181 for Supervisory Review of the final rejection mailed July 26, 2007.

The petition is **DISMISSED**.

After reviewing the above file, the file history shows that the examiner issued a non-final rejection on February 13, 2007. In this non-final rejection, the examiner rejected claims 1, 2, 5-8, 10, 11 and 16-19 under 35 USC 102(b) as being anticipated by Eaton 5,553,548; claims 3, 4, 14, and 15 were rejected under 35 USC 103(a) as being obvious in view of Eaton '548; and claims 9, 12, and 13 were rejected under 35 USC 103(a) as being obvious in view of Eaton '548 and Zankich 5,108,237. After receiving the above non-final office action, the applicant filed an amendment on May 14, 2007. The amendment amended claims 1, 2, 4, 6, 10, 14, 17 and 18. In response to this amendment, the examiner then issued a final rejection July 26, 2007 rejecting claims 1-4 and 18-19 under 35 USC 102(b) as being anticipated by Housekeeper 5,342,108, claims 5-8, 10, 11 and 15-17 under 35 USC 103(a) as being obvious in view of Housekeeper '108 and Nelson et al. 6,692,072, and claims 9 and 12-14 under 35 USC 103(a) as being obvious in view of Housekeeper '108 in view of Zankich 5,108,237. In the above final office action, the examiner responded to the applicant's remarks by indicating that applicant's remarks with respect to claims 1-19 have been considered but are moot in view of the new grounds of rejection. The examiner also noted that the new grounds of rejection presented in the final office action were necessitated by applicant's amendments to the claims. It appears that the examiner was correct in making this statement. In response to the above final rejection, the applicant filed an after final amendment on September 24, 2007, a request for reconsideration on October 16, 2007, and an after final amendment on November 6, 2007. All of these after final responses were addressed by the examiner in the form of Advisory Actions indicating that the after final amendments would not be entered because they raised new issues that would

require further consideration and/or search. After filing the last after final amendment on November 6, 2007, the applicant filed the instant petition requesting that the examiner follow the USPTO rules. In the petition, applicant has argued extensively why the examiner's final rejection of July 26, 2007 is not proper due to the fact that the prior art references of record fail to disclose the claimed subject matter of each of the claims. Applicant argues that the references used to reject the claims do not show or teach the claimed limitations

The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a substantive nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or other patentability issues, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute (35 U.S.C. 134) (MPEP 1201).

The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Director of the U.S. Patent and Trademark Office (Director) should be carefully observed. The Board will not ordinarily hear a question that should be decided by the Director on petition, and the Director will not ordinarily entertain a petition where the question presented is a matter appealable to the Board.

Since there is a difference of opinion concerning the denial of patent claims because of prior art, the questions thereby raised in the petition are said to relate to the merits and are subject to the appeal procedure and therefore are not petitionable.

Further in regard to the instant petition that the examiner's rejection of the claims is not proper, it should also be pointed out that the applicant also filed a request for continued examination (RCE) on the same day as said petition. In response to the RCE, the examiner issued a non-final rejection on December 17, 2007. The non-final rejection rejected claims 1-3, 5-8, and 18-19 under 35 USC 102(b) as being anticipated by Tsai 6,247,750, claims 4, 10, 11, 16 and 17 under 35 USC 103(a) as being obvious in view of Tsai '750, and claim 15 under 35 USC 103(a) as being obvious in view of Tsai '750 and Armstrong 7,020,920. Therefore, since the examiner has issued a rejection different than the one argued in the present petition, the issues now seem moot. Thus, for this reason also, the petition filed on November 26, 2007 is hereby dismissed.

In conclusion, the application will remain in its current status awaiting a response from applicant. Any questions regarding this decision should be directed to Supervisory Patent Examiner Brian Glessner at 571-272-6843.

SUMMARY: The petition is **DISMISSED.**

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

BG/TL
03/04/2008

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/050,620	02/02/2005	Takahiro Fukuhara	09792909-6051	9849

7590 12/13/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER
WU, JINGGE

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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Adjustment date: 12/13/2007  KKING1
02709/2005 MBIZUNES 00000048 11050620
02 FC:1111                      -500.00 OP
04 FC:1201                     -1800.00 OP
05 FC:1202                      -300.00 OP


Refund Ref:
12/13/2007          0030048175
-----------------------------------------

Credit Card Refund Total:      $2600.00

Am Exp..: XXXXXXXXXXX2000
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FORM PET651G (Rev. 08/07)

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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	: Ekkehard Brzoska	: DECISION ON REQUEST FOR
Patent Number	: 7600528	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **946** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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SEP 22 2009

OFFICE OF PETITIONS

In re Patent of Lu	:	DECISION ON APPLICATION
Patent No. 7,507,369	:	FOR RECONSIDERATION OF
Issue Date: March 24, 2009	:	PATENT TERM ADJUSTMENT.
Application No. 11/050,651	:	
Filing Date: February 4, 2005	:	
Attorney Docket No. 09693.0001-01000	:	

This is in response to the "Determination of Patent Term Adjustment - Post Grant" filed April 15, 2009. Patentee requests the determination of patent term adjustment indicated on the patent be corrected from five hundred eighty-one (581) days to nine hundred ninety-five (995) days.

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

The application was filed February 4, 2005.

The application matured into United States Patent No. 7,507,369 with a revised patent term adjustment of 581 days on March 24, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent. As noted in the request, a terminal disclaimer was previously filed in this case.

Patentee asserts the correct patent term adjustment is 995 days. Patentee asserts the patent term adjustment should include 414 delays due to Office delay in the issuance of the patent. The Office agrees the patent issued three years and 414 days after the application was filed. However, the Office does not agree that an increase of 414 days is proper.

An increase in patent term adjustment for delay in the issuance of a patent is not appropriate to the extent such delay overlaps with Office delay under other provisions of 35 U.S.C. § 154(b)(1).

Specifically, 35 U.S.C. § 154(b)(2)(A) states,

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

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.[1]

The relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, February 4, 2005, to the date of issuance of the patent, March 24, 2009.[2] In this case, the period of delay of 414 days attributable to the delay in the issuance of the patent overlaps with 414 days of the adjustment of 618 days of Office delay attributable to grounds specified in 37 C.F.R. § 1.702(a)(1).

For the reasons previously discussed, the patent term adjustment remains 581 days.

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

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[1] *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.

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

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July 2005

BANNER AND WITCOFF, LTC
1001 G ST NW
STE 1100
WASHINGTON, DC 20001

AUG 29 2005

In re Application of: KENNETH WAGUESPACK Serial No.: 11/050,674 Filed: 07 February 2005 Docket: 006427.00154	: : : : :	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on May 6, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d). Although the petition listed an incorrect serial number, the petition is considered to be directed towards the 11/050,674 application corresponding to the attorney docket number on the petition.

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

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that applicant will make an election without traverse if required by the Office; c) a statement that a pre-examination search was made, including the areas searched; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of the claims.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c), and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the supplied references. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. A mere statement alleging that the claims contain various features not found in the relevant prior art is insufficient. Additionally, the discussion of the references must compare each independent claim to each reference. For each reference, the detailed discussion must discuss what features are taught for each independent claim, and what features are not disclosed or taught for each independent claim. Petitioner is required to provide a detailed discussion for *each* reference and *each* independent claim.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. The essential purpose of the accelerated examination procedure cannot be achieved without discussion of how petitioner believes the claimed invention is distinguished from the prior art; therefore, any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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ARMSTRONG KRATZ QUINTOS
HANSON & BROOKS, LLP
1725 K STREET NW, SUITE 1000
WASHINGTON, DC 20006

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FEB 0 8 2006

OFFICE OF PETITIONS

In re Application of	:
Katsutoshi Izumi et al	:
Application No. 11/050,683	: DECISION GRANTING PETITION
Filed: February 7, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 040091A	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 6, 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 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/050,690	02/07/2005	Anthony J. Rawlinson	122706

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

DATE MAILED: April 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 April 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. A notice of abandonment will be mailed in due course.

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

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of
Michael L. Nelson, et al.
Application No. 11/050,694
Filed: February 7, 2005
Attorney Docket No.: 1857.0350001

ON PETITION

This is a decision on the petition, filed November 18, 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 October 17, 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 2851 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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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVE., NW
WASHINGTON, DC 20036

Mail Date: 04/21/2010

Applicant	: Yoshifumi Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7642646	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

MAILED

AUG 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,539,669
Norbert Broker
Issue Date: May 26, 2009
Application No. 11/050,704
Filed: February 7, 2005
Attorney Docket No. 09432.0008-00
Title: Methods and Systems For Providing Guided Navigation

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment" filed June 9, 2009. This petition is properly treated under 37 CFR 1.705(d).

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

On May 26, 2009, the above-identified application matured into US Patent No. 7,539,669 with a patent term adjustment of 460 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentee requests recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b) is 74 days.

Thus, patentees request that the determination of patent term adjustment be increased by 74 days to a total of five hundred thirty-four (534) days.

The 74-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on February 7, 2005, and a request for continued examination (RCE) having been filed on April 21, 2008. The filing of a RCE cuts-off the applicant's ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Accordingly, patentee asserts the period of adjustment under § 1.702(b) is 74 days, counting the number of days beginning on February 8, 2008 and ending on April 21, 2008.

The Office finds that as of the filing of the request for continued examination (RCE) on April 21, 2008, the application was pending three years and 74 days after its filing date. The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 460 days is correct.

Under 37 CFR § 1.703(f), patentee is entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay.

At issue is whether patentees should accrue 74 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 460 days for Office failure to take certain actions within specified time frames (or examination delay).

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

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

Likewise, 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 applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

[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).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 7, 2005 to the date the RCE was filed on April 26, 2008.

The Office did not delay 460 days and then delay an additional 74 days. Accordingly, 460 days of patent term adjustment (not 460 days and 74 days) was properly entered because the entire period of delay of 460 days attributable to grounds specified in § 1.702(a)(1)-(4) overlaps with the adjustment of 74 days attributable to the delay in the issuance of the patent under 37 CFR 1.702(b).

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 460 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 Charlema Grant, Petitions Attorney, at (571) 272-3215.

Kery Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

OIPE MAP19
JUN 0 9 2009
PATENT & TRADEMARK OFFICE

DAE

PATENT
Attorney Docket No. 09432.0008-00
SAP Reference No. 2004P00658 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Norbert BROKER	Group Art Unit: 2162
U.S. Patent No. 7,539,669	Examiner: Nguyen, P.
Issue Date: May 26, 2009	Confirmation No.: 9877
Application No.: 11/050,704	
Filed: February 7, 2005	

For: METHODS AND SYSTEMS FOR PROVIDING GUIDED NAVIGATION

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

Sir:

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

Pursuant to 37 C.F.R. § 1.705(d), Applicant respectfully requests reconsideration of the patent term of the above-identified patent in view of the *Wyeth v. Dudas* decision. As required by 37 C.F.R. § 1.705(d), this request is accompanied by a fee of $200.00 as set forth in 37 C.F.R. § 1.18(e) and includes a statement of facts pursuant to 37 C.F.R. § 1.705(b)(1). The statement of facts is as follows:

The present patent matured from U.S. Application No. 11/050,704, which was filed on February 7, 2005.

06/10/2009 JADDOZ 00000009 7539669
01 FC:1455 200.00 OP

The U.S. Patent and Trademark Office (the "USPTO") mailed a non-final Office Action on July 11, 2007.

Applicant filed a Reply to the non-final Office Action on September 24, 2007.

The USPTO mailed a final Office Action on December 7, 2007.

Applicant filed a Notice of Appeal and Request for Pre Appeal Review on March 6, 2008.

The USPTO mailed a Notice of Panel Decision from Pre-Appeal Review on March 17, 2008.

Applicant filed a Request for Continued Examination and Amendment on April 21, 2008.

The USPTO mailed a non-final Office Action on July 3, 2008.

Applicant filed a Reply to the non-final Office Action on October 3, 2008.

The USPTO mailed a Notice of Allowance on January 22, 2009.

Applicant paid the issue fee on April 13, 2009.

The application issued as U.S. Patent No. 7,539,669 on May 26, 2009.

The patent is not subject to a terminal disclaimer and there were no circumstances constituting a failure by Applicant to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704.

The issued patent reflects a patent term adjustment that extends the term of this patent by 460 days. Applicant respectfully submits that this amount is incorrect because it does not take into account the USPTO's delay in issuing the patent past the three year pendency date of the application. Applicant further submits that the correct

patent term adjustment should reflect an additional 74 days, i.e., the term of the patent should be adjusted by a total patent term adjustment of 534 days.

Pursuant to 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1), Applicant is entitled to an adjustment in patent term equal to "[t]he number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed . . . and ending on the date of mailing of . . . an action under 35 U.S.C. 132." 37 C.F.R. § 1.703(a)(1). The 460 days of patent term adjustment accorded to this patent corresponds to the delay by the USPTO in issuing a first Office Action. As reflected above, the first Office Action was mailed July 11, 2007, and that date was 460 days after April 7, 2006 (i.e., the day that was fourteen months after the date on which the application was filed).

Pursuant to 37 C.F.R. §§ 1.702(b) and 1.703(b), Applicant is also entitled to an adjustment in patent term equal to "the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed . . . and ending on the date a patent was issued, but not including the sum of . . . the number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued." 37 C.F.R. § 1.703(b). As reflected above, the application was filed February 7, 2005, and three years after the application's filing date was February 7, 2008. Moreover, the first RCE of this case was filed 74 days later on April 21, 2008. Therefore, the patent term adjustment under this section is 74 days.

However, 37 C.F.R. § 1.703(f) indicates that the patent term "shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to

the extent that such periods are not overlapping." In this case, however, there is no overlap. Accordingly, Applicant is entitled to 460 days pursuant to 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1) plus 74 days pursuant to 37 C.F.R. §§ 1.702(b) and 1.703(b), to result in a total of 534 days.

For the foregoing reasons, Applicant submits that the patent is entitled to an additional 74 days of patent term adjustment, i.e., a total patent term adjustment of 534 days.

Please charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 9, 2009

By: Fahd H Patel
Fahd Hussein Patel
Reg. No. 61,780

Date Calculator Result

From 02/07/2008 to 04/21/2008 is 74 days.

New calculation

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ALEXANDRIA, VA 22313-1450
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SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

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APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
WRAGE, PETER
Application No.: 11/050,726
Filed: February 7, 2005
For: **METHOD AND APPARATUS FOR DETERMINING A STABLE REPEATABLE CODE FROM BIOMETRIC INFORMATION**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed February 7, 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 providing a fingerprint authentication system. The disclosure fails to indicate <u>countering</u> terrorism. Further steps would be required to actually offset or nullify terrorism, yet no suggestion of "countering terrorism" is found in the disclosure. 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
MUELL, Emmerentia	:	
Application No. 11/050,744	:	DECISION ON PETITION
Filed: February 07, 2005	:	TO WITHDRAW
Attorney Docket No. **18254-003001**	:	FROM RECORD
	:	

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 22, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Barbara Benoit on behalf of all attorneys of record who are associated with customer No. 26171. All attorneys/agents associated with the Customer Number 26171 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 May 29, 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: **EMMERENTIA MUELL**
FLORENCIA VARELA 737
BECCAR
C1425AAX
ARGENTINA

cc: **STARCIENTA CORPORATION**
87 STUDIO PARK CONCOURSE CRESCENT
LONEHILL JOHNNESBURG 2062

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 10/24/08 Paper No. _____

TO SPE OF ART UNIT 3711

SUBJECT Request for Certificate of Correction for Appl. No. 11050770 Patent No. 7300363

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

V. Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision by 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: _____

Gene Kim

SPE Art Unit

PTOL-305 (REV. 7/02) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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OFFICE OF PETITIONS

JON E. KAPPES
LAW OFFICES OF STEVEN G. LISA, LTD.
C/O INTELLEVATE, LLC.
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of :
Helferich :
Application No. 11/050,775 : NOTICE
Filed: February 7, 2005 :
Attorney Docket No. I-W2W-11050775 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed January 11, 2010.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Nobuyuki Katsuda et al	:	
Application No. 11/050,778	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 0425-0960PUS2	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on January 11, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of	:	
Hiroki Koba, et al.	:	
Application No. 11/050,787	:	DECISION GRANTING PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 052076	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 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 September 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

DLA Piper US LLP
Attn: Patent Group
1200 Nineteenth Street, NW
Washington DC 20036

In re Application of	:	
Bart J. Wanders et al.	:	
Application No. 11/050,788	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. 8971-050-27	:	FROM RECORD
	:	

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 DLA Piper US LLP has been revoked by the assignee of the patent application on March 6, 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: **Peacock Myers, P.C.**
201 Third Street, N.W.
Suite 1340
Albuquerque, NM 87102

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Patent No. 7,243,567	:
Issued: July 17, 2007	: LETTER REGARDING PTA and
Application No. 11/050,795	: NOTICE ON INTENT TO ISSUE
Filed: February 7, 2005	: CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 047084-0113	:

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed July 26, 2007. The Office thanks patentees for their good faith and candor in bringing this to our attention.

The letter regarding patent term adjustment (PTA) is hereby **GRANTED IN PART**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised PTA of 264 days.

The above-identified application matured into U.S. Patent No. 7,243,795 on July 17, 2007. The patent issued with a PTA of 273 days. Patentees indicate the accordance of 273 days of PTA is in error.

A review of the application history confirms that the PTA of 273 days indicated on the patent is in error. At the time of issuance, the patent was entitled to a PTA of 264 days.

An adjustment of 273 days was properly attributed to the Office in accordance with 37 CFR 1.702(a)(1).

The adjustment of 273 days is properly reduced nine days in accordance with 37 CFR 1.704(c)(10) in connection with the "CLAIM FOR CONVENTION PRIORITY" filed June 13, 2007. The reduction began June 13, 2007, the date of the submission, and ended June 21, 2007, the date a response thereto was mailed.

Accordingly, at the time of issuance the patent was entitled to an adjustment of 264 days.

This application file is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 264 days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (271) 272-3205.

Kery A Fries

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

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,243,567B2
DATED	:	July 17, 2007
INVENTOR(S)	:	Osamura, et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 273 days

Delete the phrase "by 273 days" and insert – by 264 days--

Day : Thursday
Date: 9/13/2007

PALM INTRANET

Time: 12:07:13

PTA Calculations for Application: 11/050795			
Application Filing Date:	02/07/2005	PTO Delay (PTO):	273
Issue Date of Patent:	07/17/2007	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	264
PTO Delay Adjustment:	-9		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
43	09/13/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		9	
40	07/17/2007	PATENT ISSUE DATE USED IN PTA CALCULATION			
39	06/19/2007	EXPORT TO FINAL DATA CAPTURE			
38	06/21/2007	MAIL ACKNOWLEDGEMENT OF PRIORITY PAPERS			
37	06/21/2007	ACKNOWLEDGEMENT OF PRIORITY PAPERS			
36	06/18/2007	DISPATCH TO FDC			
35	06/18/2007	APPLICATION IS CONSIDERED READY FOR ISSUE			
34	06/13/2007	ISSUE FEE PAYMENT VERIFIED			
33	06/13/2007	ISSUE FEE PAYMENT RECEIVED			
31	03/19/2007	EXPORT TO FINAL DATA CAPTURE			
30	04/11/2007	FINISHED INITIAL DATA CAPTURE			
29	03/19/2007	EXPORT TO INITIAL DATA CAPTURE			
28	03/15/2007	MAIL NOTICE OF ALLOWANCE			
27	03/13/2007	ISSUE REVISION COMPLETED			
26	03/13/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	03/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
24	03/09/2007	NOTICE OF ALLOWABILITY			
23	07/05/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	02/07/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	02/18/2007	DATE FORWARDED TO EXAMINER			
20	02/05/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
19	01/05/2007	MAIL RESTRICTION REQUIREMENT	273		-1

18	12/29/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
17	07/05/2005	REFERENCE CAPTURE ON IDS			
16	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	02/07/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	04/14/2005	TRANSFER INQUIRY TO GAU			
11	03/23/2005	TRANSFER INQUIRY TO GAU			
10	03/12/2005	APPLICATION RETURN FROM OIPE			
9	03/14/2005	APPLICATION IS NOW COMPLETE			
8	03/12/2005	APPLICATION RETURN TO OIPE			
7	03/12/2005	APPLICATION RETURN FROM OIPE			
6	03/12/2005	APPLICATION RETURN TO OIPE			
5	03/12/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/14/2005	APPLICATION IS NOW COMPLETE			
3	03/01/2005	CLEARED BY OIPE CSR			
2	02/19/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/07/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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DEC 15 2008

In re Application of	:	
Shih-Lung **OUYANG**, et al.	:	
Application No. 11/050,815	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **320528623US**	:	

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

The petition is **DISMISSED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 22, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 23, 2008.

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

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. The filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to the pay the issue fee or any portion thereof.

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

"Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

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

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

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Shih-Lung **OUYANG, et al**	:	
Application No. 11/050,815	:	DECISION GRANTING PETITIONS
Filed: January 27, 2005	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. **320528623US**	:	37 CFR 1.313(c)(2)

This is a decision on the renewed petition, filed January 2, 2009 is being treated as a request under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and a petition under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue and publication fees on or before April 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 22, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1510 issue fee and the $300 publication fee, (2) the petition to revive fee of $1540, and (3) an adequate statement of unintentional delay.

As to the petition under 37 CFR 1.313(c)(2):

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) filed May 5, 2008.

The petition fee of $130 to withdraw this application from issue has been charged to petitioner's Deposit Account No. 50-0665.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

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

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

This matter is being referred to Technology Center AU 2627 for processing the RCE and for consideration of amendment submitted on May 27, 2008 and re-submitted January 2, 2009.

Brian W. Brown
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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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Shih-Lung Ouyang	: DECISION ON REQUEST FOR
Patent Number	: 7649820	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,815	: 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 **1062** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of

LEBA, et al.
Application No. 11/050,824
Filed: January 27, 2005
Attorney Docket No. 2766-20

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 8, 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, "representation has ended", 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: **Nicloe Fiori**
Igloo Products Corporation
777 Igloo Road
Katy, TX 77494

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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In re Application of	:	
Hsuan-Chi HSIEH	:	
Application No. 11/050,843	:	DECISION ON PETITION
Filed: February 07, 2005	:	
Attorney Docket No. BHT-3088-134	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 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 December 26, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed September 26, 2007. Accordingly, the date of abandonment of this application is December 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." See Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

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

David Bucci
Petitions Examiner
Office of Petitions

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Ogilvy Renault
Suite 1600
1981 McGill College Avenue
Montreal, QC H3A 2Y3
CANADA

Mail Date: 04/21/2010

Applicant	: Neil P. Adams	: DECISION ON REQUEST FOR
Patent Number	: 7593993	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/050,869	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York, NY 10017-5621

Mail Date: 06/18/2010

Applicant	: Dan Touitou	: DECISION ON REQUEST FOR
Patent Number	: 7653938	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/050,904	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1086** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TECHNOLOGY CENTER 2600

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of
NOZAKI, HIROTAKE, et al.
Application No. 11/050,909
Filed: February 7, 2005
For: **DIGITAL CAMERA**

DECISION ON PETITION
TO RESTART PERIOD

This is a decision on the Request to Restart Response Period filed August 10, 2009. The request is treated as a petition filed under 37 CFR § 1.181.

The petition is **GRANTED.**

Petitioner contends that "an Election of Species Requirement was issued by the United States Patent and Trademark Office (USPTO) with a stated mailing date of April 15, 2009, but the Election of Species Requirement was not delivered to the offices of the undersigned, but was instead indicated to have been returned to the USPTO as undelievered on April 16, 2009. In accordance with the provisions of MPEP §710.06, Applicants respectfully request that the period for filing a Response be reset to run from August 6, 2009, when the Election of Species Requirement was discovered on the PAIR database."

A review of the record indicates that the Office action mailed April 15, 2009 was returned to the Patent and Trademark Office by the U.S. Postal Service as undeliverable. This returned mail is prima facie evidence of non-receipt of the Office action by applicant.

The one month shortened statutory period set forth in the election requirement of April 15, 2009 is reset to run one month from the date of the mailing of this decision.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600

24 MAR 2005

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HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON MA 02421

In re Application of	:	DECISION ON
Geixman et al	:	
Application No.: 11/050,921	:	
Filing Date: 04 February 2005	:	PETITION UNDER
Attorney's Docket No.:00470002US1	:	
For: METHOD FOR PRODUCING INDIUM	:	
POWDER	:	37 CFR 1.137(b)

This is in response to "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 04 February 2005. The Petition fee of $1,500 under 37 CFR 1.17(m) to revive unintentionally abandoned application 11/050,921 has been charged to Deposit Account No.: 502233 as requested in the petition.

Applicants' petition under 37 CFR 1.137(b) filed 04 February 2005 to revive international application PCT/RU03/00138 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/RU03/00138 became abandoned as to the United States of America at midnight on 05 October 2004 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)).

International application PCT/RU03/00138 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/050,921.

This application is being forward to Office Initial Patent Examination(OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

In re Application of	:	
Masanori Kikuchi et al	:	
Application No. 11/050,943	:	DECISION GRANTING PETITION
Filed: February 7, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 122517	:	

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 18, 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 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
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SEP 23 2005

OFFICE OF PETITIONS

In re Application of:	:	
Sinitisky et al.	:	
Application No. 11/050,988	:	DECISION DISMISSING
Filed: February 3, 2005	:	PETITION UNDER
Title of Invention: FABRICATION	:	37 CFR 1.47(a)
PROCESS FOR INCREASED CAPACITANCE	:	
IN AN EMBEDDED DRAM MEMORY	:	

This is in response to the Petition by Agent of Joint Inventor)s) Filing on Behalf of Other Joint Inventor(s) who Refuse(s) to Join Application or Cannot be Reached (35 U.S.C. 118/37 CFR 1.47(a)), filed September 6, 2005, to allow the other inventor to proceed with the application on behalf of himself or herself and the nonsigning inventor.

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. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on February 3, 2005, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on March 10, 2005, requiring *inter alia*, a properly signed oath or declaration.

The instant petition

In response to the Notice, Applicant files the instant petition wherein Applicant provides a page entitled Details of Efforts to Rerach Nonsigning Inventor, wherein applicant states that the nonsigning inventor "still resides at the above address, but has been traveling in and out of the country for several months."

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),

> [w]here inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is ***not*** an acceptable reason for filing under 37 CFR 1.47.

MPEP 409.03(d).

Accordingly, the petition is dismissed.

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 decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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APR 24 2006
OFFICE OF PETITIONS

In re Application of:	:	
Sinitisky et al.	:	
Application No. 11/050,988	:	DECISION DISMISSING
Filed: February 3, 2005	:	PETITION UNDER
Title of Invention: FABRICATION	:	37 CFR 1.47(a)
PROCESS FOR INCREASED CAPACITANCE	:	
IN AN EMBEDDED DRAM MEMORY	:	

This Decision is in response to the Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed March 23, 2006, to allow the other inventor to proceed with the application on behalf of himself or herself and the nonsigning inventor.

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. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Background

The above-identified application was filed on February 3, 2005, without, *inter alia*, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on March 10, 2005, requiring *inter alia*, a properly signed oath or declaration.

The September 6, 2005 petition

In response to the Notice, Applicant filed a petition on September 6, 2005 the instant petition wherein Applicant provided a page entitled "Details of Efforts to Reach Nonsigning Inventor", wherein applicant stated that the nonsigning inventor "still resides at the above address, but has been traveling in and out of the country for several months."

The petition was dismissed in a Decision mailed September 23, 2006. The the Decision dismissing the petition, Applicant was advised that

> [w]here inability to find or reach a nonsigning inventor 'after diligent effort' is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is ***not*** an acceptable reason for filing under 37 CFR 1.47.

MPEP 409.03(d).

The instant Request for Reconsideration

Applicant files the instant Request for reconsideration and provides, "as additional proof that the nonsigning inventor [] cannot be reached (or even found)", a copy of an envelop containing the declaration for signature, sent certified mail to the nonsigning inventor at his last known address, returned by the Post Office unsigned.

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), the MPEP 409.03(d)(I) provides:

> I. INVENTOR CANNOT BE REACHED
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47. Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 CFR 1.47. 37 CFR 1.43 may be available under these circumstances. See MPEP § 409.02. Such a petition under 37 CFR 1.47 will be dismissed as inappropriate.
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included in the statement of facts. It is important that the statement contain facts as opposed to conclusions.

MPEP 409.03(d)(i).

Analysis

Applicant has provided that the nonsigning inventor has been traveling in and out of the country for several months, and that a copy of an envelop containing the declaration for signature, sent certified mail to the nonsigning inventor at his last known address, was returned by the Post Office unsigned after three attempts to deliver the certified mail.

Applicant was advised in the Decision mailed September 23, 2005, that "The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 CFR 1.47." Armed with this knowledge, Applicant now supports the

assertion that the nonsigning inventor cannot be found or reached by having mailed the declaration to the last known address of the inventor (three attempts by the Post Office) at the same address - the address where applicant has previously asserted that the inventor resides, but "has been traveling in and out of the country for several months". Applicant has not provided any steps taken to locate the whereabouts of the nonsigning inventor, save mailing the declaration to the last known address of the inventor.

Conclusion

Applicant has failed to demonstrate inability to find or reach a nonsigning inventor "after diligent effort". Diligent effort requires more than mailing the declaration to the last known address of the inventor. Applicant should take steps to locate the whereabouts of the nonsigning inventor, and those steps should be included in a statement of facts submitted by a person with first-hand knowledge of the steps. It is important that the statement contain facts as opposed to conclusions.

Accordingly, the petition is dismissed.

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 decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

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OFFICE OF PETITIONS

In re Application of Sinitsky et al. Application No. 11/050988 Filing or 371(c) Date: 02/03/2005 Title of Invention: FABRICATION PROCESS FOR INCREASED CAPACITANCE IN AN EMBEDDED DRAM MEMORY	: : : : : : : : :	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to a Petition Under 37 CFR 1.47, filed October 23, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor. The delay in treating this petition is regretted.

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, Fu-Chieh Hsu, 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 referred to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. FU-CHIEH HSU
21775 CONGRESS HALL LANE
SARATOGA, CA 95070-9714

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MAR 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Sinitsky et al.	:	
Application No. 11/050988	:	DECISION GRANTING
Filing or 371(c) Date: 02/03/2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(a)
FABRICATION PROCESS FOR	:	
INCREASED CAPACITANCE IN AN	:	
EMBEDDED DRAM MEMORY	:	

Dear Dr. Hsu:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 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 joint inventor.

As an 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. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Derek L. Woods
Attorney
Office of Petitions

CC: BEVER HOFFMAN & HARMS, LLP
TRI-VALLEY OFFICE
1432 CONCANNON BLVD., BLDG. G
LIVERMORE, CA 94550

11/051020
11/051020

Practitioner's Docket No. HES 2004-IP-016638U2 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Jiten Chatterji et al.
Application No.: / unknown Group No.: unknown 1714
Filed: concurrently herewith Examiner: unknown Szekely, Peter
For: Improved Resilient Cement Compositions and Methods of Cementing

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

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. § 1.102(c) AND M.P.E.P. § 708.02 IV)

NOTE: See M.P.E.P. § 708.02, 7th ed.

Applicant hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is:

(check one of the following)

☐ applicant's birth certificate.

☒ a declaration by the applicant that he/she is over 65 years of age.

No fee is required with this petition, in accordance with 37 C.F.R. § 1.102(c).

Craig W. Roddy
SIGNATURE OF PRACTITIONER

Reg. No.: 36,256

Craig W. Roddy
(type or print name of practitioner)

Tel. No.: (580) 251-3012

P.O. Box 1431
P.O. Address

Customer No.:

Duncan, OK 73536-0440

(Petition to Make Special Because of Applicant's Age [9-16.3])

PETITION GRANTED

Richard Crispino MAY 31 2005
Special Program Examiner
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 13 2009

OFFICE OF PETITIONS

Jonathan P. Osha
OSHA & MAY L.L.P.
1221 McKinney Street, Suite 2800
Houston TX 77010

In re Application of :
Tao, et al. :
Application No.: 11/051,038 : ON PETITION
Filing Date: February 4, 2005 :
Attorney Docket No. 11345/008002 :

This is a decision on the petition under 37 CFR 1.47(b) filed June 19, 2009. The petition will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67.

The petition is **dismissed**.

Petitioner requests that the supplemental declaration filed June 19, 2009, be accepted without the signature of the joint inventors as they cannot be located to sign the supplemental declaration. It is noted, that in this case, 37 CFR 1.67 requires that the supplemental declaration be signed by all named inventors, yet petitioner asserts that the joint inventors cannot be located. In such a case, Section 603 of the *Manual of Patent Examining Procedure* (MPEP) provides that:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 so as to accept a supplemental declaration without the signature of all of the joint inventors. It is noted that provisions of 37 CFR 1.47 do not apply in this instance and said provisions are only applicable to the original filing of a declaration under 37 CFR 1.63. However, the requirements for filing a supplemental declaration on behalf of a non-signing inventor are the same as the requirements of 37 CFR 1.47, as set forth in Section 400 of the Manual of Patent Examining Procedure. The supplemental declaration filed cannot be accepted until the assignee demonstrates that it has the power to prosecute the application. Section 409.03(b) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that, "[w]here the oath or declaration is being signed on behalf of an assignee, see MPEP 324." Section 324 of the Manual of Patent Examining Procedure cites 37 CFR 3.71(c) which states that, "[a]n 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." Petitioner should note that 37 CFR 3.73 requires that before an assignee can take action in a patent matter, the assignee must establish ownership

of the patent property in accordance with 37 CFR 3.73(b)(1)(i) or (ii). It is noted that the petition filed June 19, 2009, contained some language to this effect, however; petition is signed by Jonathan Osha and the supplemental declaration is signed by Jianguo Zhang who is noted as being authorized to act on behalf of the assignee. The 3.73(b) statement is required to be signed by a person that is authorized to act on behalf of the assignee. It is, therefore, requested that the petitioner have the appropriate person complete the enclosed form which is separate from the supplemental declaration.

The fee for the instant petition is $400.00; deposit account 50-0591 will be charged an additional $200.00 accordingly.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/96 (06-09)
Approved for use through 07/31/2009. 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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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 08 2010

OFFICE OF PETITIONS

Jonathan P. Osha
OSHA & MAY L.L.P.
1221 McKinney Street, Suite 2800
Houston TX 77010

In re Application of :
Tao, et al. :
Application No.: 11/051,038 : ON PETITION
Filing Date: February 4, 2005 :
Attorney Docket No. 11345/008002 :

This is a decision on the renewed petition under 37 CFR 1.47(b) filed July 28, 2009. The petition will be treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.67.

The petition is **granted**.

Petitioner requests that the supplemental declaration filed June 19, 2009, be accepted without the signature of the joint inventors as they cannot be located to sign the supplemental declaration. It is noted, that in this case, 37 CFR 1.67 requires that the supplemental declaration be signed by all named inventors, yet petitioner asserts that the joint inventors cannot be located. In such a case, Section 603 of the *Manual of Patent Examining Procedure* (MPEP) provides that:

> When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a). If there are no joint inventor(s), then the party with sufficient proprietary interest must sign the supplemental declaration on behalf of the nonsigning inventor. See MPEP § 409.03(b).

Accordingly, the instant petition will be treated as petition under 37 CFR 1.183 to waive the requirement of 37 CFR 1.67 so as to accept a supplemental declaration without the signature of all of the joint inventors. It is noted that provisions of 37 CFR 1.47 do not apply in this instance and said provisions are only applicable to the original filing of a declaration under 37 CFR 1.63. However, the requirements for establishing that a non-signing inventor has refused, or cannot be located, to sign the supplemental declaration are the same as the requirements of 37 CFR 1.47, as set forth in Section 400 of the Manual of Patent Examining Procedure.

The petition is granted. The requirement of 37 CFR 1.67 that all named inventors execute the supplemental declaration is waived, and the supplemental declaration executed by the assignee empowered under 37 CFR 3.73(b), filed July 28, 2009, is noted and made of record.

The application file will be forwarded to Technology Center 2100, GAU 2191 further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : April 15, 2009

TO SPE OF : ART UNIT 2829
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/051039 /7084654
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: _____

HA TRAN NGUYEN
SUPERVISORY PATENT EXAMINER

SPE — 2829 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Michael Prados	: DECISION ON REQUEST FOR
Patent Number	: 7607087	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,051	: 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 **1233** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/051,071	02/04/2005	Horst Haefner	4833	4309

EXAMINER
LEE, JAE YOUNG

ART UNIT	PAPER NUMBER
4144	

MAIL DATE	DELIVERY MODE
02/22/2008	PAPER

7590 02/22/2008
FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

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

02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/051,071	02/04/2005	Horst Haefner	4833	4309

7590 02/22/2008
FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

EXAMINER
LEE, JAE YOUNG

ART UNIT	PAPER NUMBER
4144	

MAIL DATE	DELIVERY MODE
02/22/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Wolff, et al.	:	
Application No. 11/051,072	:	DECISION GRANTING PETITION
Filed: February 4, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 015356-010500US	:	

This is a decision on the petition, filed December 10, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 3, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 3621 for examination in due course.

Kenya A. McLaughlin

Kenya A. McLaughlin
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
11/051,072	02/04/2005	Gregory J. Wolff	015358-010500US

CONFIRMATION NO. 4311

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

NONPUBLICATION RESCISSION LETTER

OC000000027529234

Date Mailed: 01/03/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 04/10/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. 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".

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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POTTER ANDERSON & CORROON LLP
ATTN: JANET E. REED, PH.D.
P.O. BOX 951
WILMINGTON, DE 19899-0951

Mail Date: 04/28/2010

Applicant	: James Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7628299	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

TYCO TECHNOLOGY RESOURCES
SUITE 140
4550 NEW LINDEN HILL ROAD
WILMINGTON, DE 19808-2952

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JUL 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
David James Fabian	:	
Application No. 11/051,077	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No.: E-GI-00019 (1500-3)	:	

This is a decision on the petition, filed June 26, 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 April 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2833 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

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JAN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Francis G. DOCHERTY, et *al.*	:	
Application No. 11/051,086	:	DECISION GRANTING PETITION
Filed: February 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **49852-219374**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 28, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 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) 272-7253.

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Proulx et al.	:	
Application No. 11/051,089	:	DECISION GRANTING
Filed: February 5, 2005	:	STATUS UNDER
Attorney Docket No.	:	37 CFR 1.47(a)
2004P01995US01	:	

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

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, Mirsaid Bolorforosh, 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 referred to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. MIRSAID BOLORFOROSH
250 S. CASTANYA WAY
PORTOLA VALLEY, CA 94028

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of :
Proulx et al. :
Application No. 11/051,089 : LETTER
Filed: February 5, 2005 :
Attorney Docket No. :
2004P01995US01 :

Dear Mr. Bolorforosh:

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

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OFFICE OF PETITIONS

In re Application of	:	
Leonard J. Decant, Jr., et al.	:	
Application No. 11/051,101	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 297912005800	:	FROM RECORD
	:	

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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on June 4, 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 undersigned at 571-272-1642.

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

cc: TODD W. WRIGHT
RUTAN & TUCKER, LLP
611 ANTON BOULEVARD
SUITE 1400
COSTA MESA, CA 92626-1931

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

SEP 21 2005

AKIN, GUMP, STRAUSS, HAUER & FELD
1111 LOUISIANA STREET
44TH FLOOR
HOUSTON, TX 77002

In re application of
David Scott Chrisman
Application No. 11/051,110
Filed: February 4, 2005
For: TOOL AND METHOD FOR DRILLING, REAMING, AND CUTTING

: DECISION ON REQUEST
: FOR WITHDRAWAL OF
: ATTORNEY

This is a decision on the request filed on May 24, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

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

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved as moot because the attorney making the request; Tara M. Williams, does not now have, and apparently never has had, power of attorney in this application.

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

KJD/slb 9/15/05

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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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DALY, CROWLEY, MOFFORD & DURKEE, LLP
SUITE 301A
354A TURNPIKE STREET
CANTON MA 02021-2714

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MAY 23 2008

In re Application of	:	
William P. Taylor et al	:	
Application No. 11/051,124	:	DECISION GRANTING PETITION
Filed: February 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ALLEG-155PUS	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 30, 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 2826 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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HARMAN - BRINKS HOFER CHICAGO
BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Lars Konig.	:	
Application No. 11/051,127	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 11336-902 (P03132US)	:	FROM RECORD
	:	

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 **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the 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 this application should be directed to the Technology Center.

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

Attachment: Blank Copy of PTOL 83 form

cc: ROBERT P. HART, ESQ
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

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

August 2005

MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET
CHICAGO, ILLINOIS 60661

SEP - 8 2005

In re Application of:
BRYAN BUHOVECKEY ET AL.
Serial No.: 11/051,129
Filed: 04 February 2005
Docket: 16472US01

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) [MANUFACTURE]

This is a decision on the petition filed on May 19, 2005, to make the above-identified application special on the ground of prospective manufacture under the procedure set forth in MPEP § 708.02(I) in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petition provides the requisite petition fee, a statement by the attorney/agent registered to practice, and one copy of references deemed most relevant.

For accelerated examination under MPEP § 708.02(I) in accordance with 37 C.F.R. § 1.102(d), the following are required:

1. The requisite petition fee;
2. A statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:

(A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
(B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
(C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art; and

3. 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 requirements of MPEP § 708.02(I) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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JEFFREY A. TRAVIS
c/o Plager Law Offices, P.C.
16152 Beach Blvd., Suite 207
Huntington Beach CA 92647

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JUN 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Michel Chapelle et al.	:	
Application No. 11/051,153	:	DECISION ON PETITION
Filed: February 7, 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 February 7, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant Michel Chapelle declaring that he/she is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3622 for action on the merits commensurate with this decision.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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AT & T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Robert J. HALL	:	
Application No. 11/051,158	:	DECISION ON PETITION
Filed: February 7, 2005	:	
Docket No. 113184 CON2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 20, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 2442 for appropriate action by the Examiner in the normal course of business on the reply received November 21, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

cc: RONALD SLUSKY
LAW OFFICES OF RONALD D. SLUSKY
353 WEST 56TH STREET, SUITE 5L
NEW YORK, NY 10019

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UNITED STATES DEPARTMENT OF COMMERCE
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Hau Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7576783	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1062** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 24 2009

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

In re Application of
Yam et al.
Serial No.: 11/051,165
Filed: February 4, 2005
Attorney Docket No.: **AZOO20CIP1**

: PETITION DECISION

This is a response to the petition under 37 CFR 1.59(b), filed March 6, 2009, to expunge information from the above identified application.

Petitioner requests that a miscellaneous incoming letter of June 14, 2007 dealing with "Draft Terms for China" be expunged from the record since the letter was unintentionally submitted. 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 this document have been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

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MAY 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Ernest L. BONNER, et al	:	
Application No. 11/051,171	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. B1849-001.CIP5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed April 17, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Susan T. Evans does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SUSAN T. EVANS
333 TWIN DOLPHIN DRIVE,
SUITE 400
REDWOOD SHORES, CA 94065

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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	:	
Kooken et al.	:	DECISION ON PETITION
Application No. 11/051,196	:	TO WITHDRAW
Filed: February 7, 2005	:	FROM RECORD
Attorney Docket No. 70465.00125	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed November 5, 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.*

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 91854 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71 As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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In re Application of	:	
Yan Zhao	:	
Application No. 11/051,213	:	DECISION ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 2046.049US2	:	

This is a decision on the petition, filed November 3, 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 non-final Office action mailed April 2, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on November 2, 2009.

Petitioner asserts that the Office action dated April 2, 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. 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.

The telephone inquiries regarding this decision should be directed Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center f Art Unit 2164 for appropriate action in the normal course of business on the amendment submitted November 3, 2009.

Chris Bottorff
Petitions Examiner
Office of Petitions

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COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Veselin Skendzic et al	:	
Application No. 11/051,232	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. 1444-0115	:	

This is a decision on the petition, filed March 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2832 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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PATENT INGENUITY PC
520 BROADWAY
SUITE 350
SANTA MONICA CA 90401

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MAR 16 2009

OFFICE OF PETITIONS

In re	:	
Fiedorowicz, et al.	:	DECISION ON PETITION
Application No. 11/051,234	:	
Filed: February 4, 2005	:	
Attorney Docket No. SVL920040095US1	:	

This is a decision on the paper titled "PETITION" filed January 12, 2009, which is being treated as a petition under 37 CFR 1.181.

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

Petitioner explains that a response was incorrectly filed in the above application on January 9, 2009, along with a one month extension of time. The response and extension were intended for another application. Subsequently, on the same day, petitioner filed a response in the correct application, together with a one month extension of time. Petitioner now requests that the response filed in the instant application be removed, and a refund of the $130 extension of time submitted with the response.

A review of the application filed does not indicate a response filed on January 9, 2009. Apparently, the Office identified the correct application to which it belonged, and *sua sponte* transferred the response to the correct application.

Per 37 CFR 1.26(a), the Director may refund any fee paid by mistake, not including a change of purpose. Accordingly, the request for a refund of the $130 extension of time fee is granted. Refund will be made under separate cover.

The application is being forwarded to Group Art Unit 2192 for consideration of the RCE filed December 31, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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GANZ LAW, P.C.
P.O. BOX 2200
HILLSBORO, OR 97123

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OFFICE OF PETITIONS

In re Application of	:	
PAN, James	:	
Application No. 11/051,239	:	DECISION ON PETITION
Filed: February 04, 2005	:	TO WITHDRAW
Attorney Docket No. **MC/99-0001.DIV.2**	:	FROM RECORD
	:	

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 13, 2007.

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

A review of the file record indicates that the power of attorney to Ganz Law, P.C. has been revoked by the assignee of the patent application on February 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FLETCHER YODER P.C.**
7915 FM 1960 RD. WEST
SUITE 330
HOUSTON TX 77070

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/051,239	02/04/2005	James Pan	MIC/99-0001.DIV.2

CONFIRMATION NO. 2817

OC000000023295884

37106
FLETCHER YODER P.C.
7915 FM 1960 RD. WEST
SUITE 330
HOUSTON, TX 77070

Date Mailed: 04/09/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2007.

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

Michelle R. Foerer

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

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/051,239	02/04/2005	James Pan	MIC/99-0001.DIV.2

CONFIRMATION NO. 2817

OC000000023295883

22874
GANZ LAW, P.C.
P O BOX 2200
HILLSBORO, OR 97123

Date Mailed: 04/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2007.

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

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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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	:	
Warren Coon	:	
Application No. 11/051,240	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. MGNC-116CIP	:	FROM RECORD
	:	

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 7, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster has been revoked by the assignee of the patent application on May 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOEL D. VOELZKE
24772 SADDLE PEAK ROAD
MALIBU, CA 90265-3042

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222 EAST 41ST ST
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Zhen Zhu et al.	:	
Application No. 11/051,242	:	NOTICE
Filed: February 4, 2005	:	
Attorney Docket No. 012371-0027-999	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

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Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Braden Stadlman	:	
Application No. 11/051,246	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 1936.001US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 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 Daniel J. Kluth and all attorneys/agents of record has been revoked by the assignee of the patent application on February 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Chalker Flores, LLP
2711 LBJ FRWY
Suite 1036
Dallas, TX 75234

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

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NOV 25 2009

OFFICE OF PETITIONS

In re Application of
William J. Cummings
Application No. 11/051,258
Filed: February 4, 2005
Attorney Docket No. IRDM.030A

ON PETITION

This is a decision on the petition, filed November 24, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 12, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 05/07/2010

Applicant	: Matthew P. Fairclough	: DECISION ON REQUEST FOR
Patent Number	: 7710418	: RECALCULATION of PATENT
Issue Date	: 05/04/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,318	: OF WYETH
Filed	: 02/04/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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DORSEY & WHITNEY LLP
US BANK CENTER
1420 FIFTH AVENUE
SUITE 3400
SEATTLE, WA 98101-4010

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JUN 20 2008

In re Application of :
Paul Magliocco, et al. :
Application No. 11/051,325 : ON PETITION
Filed: February 3, 2005 :
Attorney Docket No. 34028/2/US/ENB (469052-27 :

This is a decision in response to the petition, filed February 6, 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 November 27, 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) was obtained. Accordingly, the application became abandoned on February 28, 2007. On February 6, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 21, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 2186 for appropriate action by the Examiner in the normal course of business on the amendment filed February 6, 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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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 07/14/2010

Applicant	: Rina Panigrahy	: DECISION ON REQUEST FOR
Patent Number	: 7650429	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

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Fish & Richardson, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Loki Jorgenson et al.	:	
Application No. 11/051,353	:	DECISION ON
Filed: February 4, 2005	:	PETITION TO WITHDRAW
Attorney Docket No. 18827-0003001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2009.

The request is **APPROVED**.

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

The request was signed by Bing Ai on behalf of attorney/agents 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. Accordingly, all correspondence will be mailed to address of the inventor at the first copied address below. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Loki Jorgenson
2754 Dundas Street
Vancouver, British Columbia, V5G 1R2
Canada

cc: Apparent Networks, Inc.
10 Cedar Street, Suite 100
Wellesley Hills, MA 02481

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/051,353	02/04/2005	Loki Jorgenson	18827-003001

CONFIRMATION NO. 2721

POWER OF ATTORNEY NOTICE

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000036584858

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/24/2009.

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

/kainabinet/

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

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MAY 30 2006

In re Application of EBERSBERGER ET AL.	:	
Appl. No.: 11/051,357	:	**WITHDRAWAL FROM**
Filed: February 04, 2005	:	**ISSUE**
For: **COMPUTER-ASSISTED METHOD FOR**	:	*37 CFR 1.313*
CALCULATING THE TEMPERATURE OF A	:	
SOLID BODY	:	

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

U.S. Patent and Trademark Office records reveal that the issue fee and the publication fee have not been paid. If the issue fee and the publication fee have been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fees Due, applicant may request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified on the new Notice of Allowance and Issue and Publication Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Any question regarding this communication should be directed to John E. Barlow Jr, Supervisory Patent Examiner, at (571) 272-2269.

The application is being forwarded to the examiner for action.

Arthur Grimley
Acting Director
Patent Examining Technology Center 2800

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

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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 :
William M. Bommersbach et al. :
Application No. 11/051,373 : ON PETITION
Filed: February 4, 2005 :
Attorney Docket No. TI-35934

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file the issue fee in a timely manner in reply to the Notice of Allowance mailed August 28, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on November 29, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee (2) the petition fee of $1,540; 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 Carl Friedman at (571) 272-6842.

The application file is being referred to the Office of Patent Publication.

David Bucci
Petitions Examiner
Office of Petitions

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THE DAVIS BROWN TOWER
215 10TH STREET SUITE 1300
DES MOINES, IA 50309

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OFFICE OF PETITIONS

In re Application of	:	
Suresh Jagtiani, et. al.	:	
Application No. 11/051,386	:	DECISION ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. 6648090/60200	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on October 22, 2007, to revive the above-identified application.

The application became abandoned for failure to file a reply to the final office action mailed February 16, 2007. A Notice of abandonment was mailed on September 6, 2007.

The Power of Attorney with and Correspondence Address Indication Form filed on October 22, 2007 has not been accepted, in that, petitioner failed to comply with the requirements of 37 CFR 3.73(b)[1]. However, in accordance with 37 CFR 1.34(a), the signature of Daniel A. Rosenberg appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

Additionally, there is no indication that the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

[1] In order to satisfy the requirements of 37 CFR 3.73(b), a blank Statement under 37 CFR 3.73(b) is enclosed for petitioner's convenience.

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) under 37 CFR 1.114 with the $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED.**

This application is being revived for consideration of the RCE.

If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application file is being referred to Technology Center Art Unit 3623 for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b)

cc: Daniel A. Rosenberg
Briggs and Morgan, P.A.
80 South Eighth Street, Suite 2200
Minneapolis, MN 55402

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LOZA & LOZA LLP
305 N. SECOND AVENUE, APT 127
UPLAND, CA 91786-6064

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In re Application of	:	
COVER, et al.	:	
Application No. 11/051,404	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. **YOR-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 October 18, 2007 and re-submitted February 20, 2008.

The request is **APPROVED.**

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

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

All future communications from the Office will be directed to the first named signing inventor James N. Cover at the address below until otherwise properly notified by the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JAMES N. COVER**
2 HOLLAND
IRVINE, CA 92618

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 08/02/2010

Applicant	: Siamak Naghian	: DECISION ON REQUEST FOR
Patent Number	: 7649872	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,428	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **980** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PO BOX 1895, MS 641
NEW HOLLAND PA 17557

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OFFICE OF PETITIONS

In re Application of	:	
Bordini, Giorgio	:	DECISION ON PETITION
Application No. 11/051,438	:	TO WITHDRAW
Filed: February 4, 2005	:	FROM RECORD
Attorney Docket No. 17662-3	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 17, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **NOT APPROVED**.

A review of the file record indicates that Stephen Michael Patton: (1) does not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[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 does not meet any the conditions set forth in 37 CFR 10.40.

The correspondence address of record remains unchanged.

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

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Morgan Lewis & Bockius LLP/ AI
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Richard E. Crandall	: DECISION ON REQUEST FOR
Patent Number	: 7607019	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/03/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application
Donna Ambrosino et al.
Application No. 11/051,453
Filed: February 4, 2005
Attorney Docket No. **MJI-001**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) filed July 31, 2009. Applicant requests that the determination of patent term adjustment be corrected from 434 days to 1255 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

/Kery A. Fries/

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

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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,519,552	:	
Phelps	:	DECISION ON
Issue Date: April 14, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/051,473	:	OF
Filed: February 7, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 050851-0102	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§1.705," filed June 12, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred eighty-five (685) days to one thousand and twenty-seven(1,027) days.

Patentee requests that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in *Wyeth v. Dudas*. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 685 days.

On April 14, 2009, the above-identified application matured into U.S. Patent No. 7,519,552 with a patent term adjustment of 685 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentee requests 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). 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 a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 375 of the 432 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 728 days do not overlap as these periods do not occur on the same day.

Patentee argues that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 432 days. This 432 day period is calculated based on the application having been filed under 35 U.S.C. §111 on February 7, 2005, and the patent having not issued until April 14, 2009, three years and 432 days later. Patentee asserts that in addition to this 432 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), totalling 728 days. This 728 day period is the sum of:

- a period of delay of 704 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 24 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(4).

Under 37 CFR § 1.703(f), patentee is 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 applicant 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.

Patentee asserts applicant delay should be calculated as 76 days, as shown by the sheet attached to the petition. However, a review of the application history supports a conclusion that the Office properly calculated the number of days reduced for patentee's delay as 43 days. Pursuant to 37 CFR 1.704(c)(10), a submission of any paper after a notice of allowance is mailed

will result in a reduction of the lesser period of the number of days beginning on the date the paper was filed and ending on the mailing date of an Office action or notice in response to the paper, or four months. In this instance, an Information Disclosure Statement (IDS) was filed on February 24, 2009, after the mailing of the December 1, 2008 Notice of Allowance. The IDS was addressed in the Notice of Allowability mailed to applicant on March 12, 2009. Thus, the 17 day period of reduction ran from the date the IDS was filed, February 24, 2009, to the date it was addressed by the examiner in writing, March 12, 2009.

Patentee asserts that the total period of Office delay is the sum of the period of Three Years Delay (432 days) and the period of Examination Delay (728 days) to the extent that these periods of delay are not overlapping. Patentee maintains that the periods of Three Year Delay and Examination Delay overlap by 57 days.

Accordingly, patentee submits that the total period of Office Delay is 1103 days, which is the sum of the period of Three Year Delay (432 days) and the period of Examination Delay (728 days), reduced by the period of overlap (57 days per patentee's definition of overlap).

As such, patentee asserts entitlement to a patent term adjustment of 1,027 days (432 +728 reduced by 57 overlap -76 for applicant delay). Considering that applicant delay is properly calculated as 43 days, patentee's assertion of entitlement to a patent term adjustment is considered to be 1,060 days (432 + 728 reduced by 57 overlap - 43 for applicant delay).

The Office agrees that the patent issued 3 years and 432 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment of 728 days is correct. At issue is whether patentee should accrue 375 (adjusted for overlap, per patentee's calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 728 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that the full 432 day period of Three Year Delay overlaps with the 728 days accorded during the pendency of the application. Patentee's interpretation of the period of

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

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg.

> 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C.

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

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

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 7, 2005 to April 14, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 728 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within specified time frames during the pendency of the application. The 432 days for Office delay in issuing the patent overlaps with the 728 days accorded during the pendency of the application. During that time, the issuance of the patent was delayed by 728 days, not 728 + 375 days. The Office took 14 months and 704 days to issue a first Office action. The Office took 4 months and 24 days to respond to a reply under 35 U.S.C. 132. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 728 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 432 days after its filing date.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking

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

in excess of 3 years to issue the patent for a total Office delay of 728 days.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent remains 685 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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

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WASHINGTON DC 20007

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MAR 17 2010

In re Patent No. 7,519,552	:	DECISION ON REQUEST
Phelps	:	FOR
Issue Date: April 14, 2009	:	RECONSIDERATION OF
Application No. 11,051,473	:	PATENT TERM ADJUSTMENT
Filed: February 7, 2005	:	and
Atty Docket No. 050851-0102	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 17, 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 twenty-seven (1,027) 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 twenty-seven (1,027) days is **GRANTED to the extent indicated herein.**

The Office acknowledges the June 12, 2009 submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

Patentees have properly calculated the "A" delay period, the "B" delay period, and the overlapping period. However, patentees have not calculated the Applicant delay period properly. In particular, patentees assert that the delay in filing the February 24, 2009 Information Disclosure Statement ("IDS")

should be 50 days, rather than 17 days. Pursuant to 37 CFR 1.704(c)(10), a submission of any paper after a notice of allowance has been mailed will be cause for a reduction, the calculation of the amount being the lesser period of the number of days beginning on the date the other paper was filed and ending on the mailing date of the Office action or notice in response to the paper or four months. In this instance, a Notice of Allowance was mailed on December 1, 2008. The February 24, 2009 IDS was addressed in a supplemental Notice of Allowability, mailed March 12, 2009. Accordingly, the period of reduction is properly calculated as 17 days, counting the number of days in the period beginning on the date the IDS was filed, February 24, 2009, and ending on March 12, 2009, the date the Office mailed a supplemental Notice of Allowability addressing the February 24, 2009 IDS.

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, patentee is 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 sixty (1,060)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

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 : 7,519,552 B2

DATED : **April 14, 2009** **DRAFT**

INVENTOR(S) : Robert B. Phelps

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 685 days

Delete the phrase "by 685 days" and insert – by 1,060 days--

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FOLEY AND LARDNER LLP
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Mail Date: 04/21/2010

Applicant	: Robert B. Phelps	: DECISION ON REQUEST FOR
Patent Number	: 7519552	: RECALCULATION of PATENT
Issue Date	: 04/14/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,473	: OF WYETH
Filed	: 02/07/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Pinnow et al.	:	
Application Number: 11/051483	:	DECISION ON PETITION
Filing Date: 02/07/2005	:	
Attorney Docket Number:	:	
543822006501	:	

This is a decision on the petition filed on 11 June, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 10 January, 2006, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 9 November, 2005, which set a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 November, 2005.

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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)).

Petitioners have filed an executed declaration and the required fees.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Cay-Uwe Pinnow et al.	:	
Application No. 11/051,483	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. I438.172.101 / IF02P060US	:	FROM RECORD
	:	

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** 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 applicant of the patent application on January 17, 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Dicke, Billig & Czaja**
Fifth Street Towers
100 South Fifth Street, Suite 2250
Minneapolis, MN 55402

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Dimock Stratton LLP/Research In Motion Limited
20 Queen Street West, 32nd Floor, Box 102
Toronto, ON M5H 3R3
CANADA

Mail Date: 04/20/2010

Applicant	: Jerrold R. Randell	: DECISION ON REQUEST FOR
Patent Number	: 7610433	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

In re Application of
Edward D. Schmitt et al.
Application No. 11/051,493
Filed: February 4, 2005
Attorney Docket No. **CW577.US1 .C1**

ON PETITION

This is a decision on the petition filed September 8, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

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

This application became abandoned December 1, 2006 for failure to timely pay the issue fee on or before November 30, 2006. Accordingly, a Notice of Abandonment was mailed December 28, 2006 after the filing of the instant petition.

The issue fee in the amount of $1510.00, petition fee in the amount of $1620.00 and publication fee in the amount of $300 have been charged to the credit card provided. All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON MD 21286

In re Application of: Etter, Mark A. et al Serial No.: 11/051,496 Filed: Feb. 4, 2005 Docket: JK-01370 Title: PNEUMATICALLY POWERED ROTARY TOOL HAVING LINEAR FORWARD AND REVERSE SWITCH	DECISION ON PETITION TO WITHDRAW FINALITY OF OFFICE ACTION

This is a decision on the petition filed on Jan. 4, 2008 to accept late reply brief filed concurrently. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **Dismissed as moot**.

Discussion

In his Jan. 4, 2008 petition the applicant requested the acceptance of late reply brief due to non-receipt of the examiner's answer mailed Sep. 14, 2007. In support of his petition, the applicant provides an affidavit of Linda Allen, the docketing clerk of The Black & Decker Corporation with a printout for docket entries. Since the petitioner has met all the requirements set forth in MPEP § 711.03 (c), the late reply brief is hereby accepted.

On Feb. 28, 2008, the applicant also filed additional amendment to the claims, IDS and a Request for Continuing Examination. The filing of additional amendment and RCE, the applicant has effectively withdrawn the appeal and the Office will withdraw the finality of the last Office action in accordance with 37 CFR §1.114(d)[1]. The applicants are now able to present the new amendment filed on Feb. 28, 2008.

[1] 37 CFR § 1.114(d) If an applicant timely files a submission and fee set forth in § 1.17(e), the Office will withdraw the finality of any Office action and the submission will be entered and considered. If an applicant files a request for continued examination under this section after appeal, but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner. An appeal brief (§ 41.37 of this title) or a reply brief (§ 41.41 of this title), or related papers, will not be considered a submission under this section

Decision

In view that the fact that the applicant has filed a RCE in this case and withdrawn the appeal in this application, the petitioner's request to accept the late reply brief is moot. Therefore, the petition is dismissed as moot.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3721 for examiner's preparation of an Office action in response to the amendment filed with the RCE filed on Feb. 28, 2008. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED AS MOOT.

Karen M. Young, Director
Technology Center 3700

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OFFICE OF PETITIONS

SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON WI 53711

In re Application of	:	
Dee and Stevenson	:	
Application No. 11/051,501	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. 10004.526	:	

This is a decision on the petition under 37 CFR 1.182, filed May 19, 2006, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors has been changed as follows:

1. Alejandro O. Dee

2. Randal D. Stevenson

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/051,501	02/04/2005	1617	1780	10004.526		30	3

CONFIRMATION NO. 8993
CORRECTED FILING RECEIPT
OC000000019768947
OC000000019768947

39231
SMITH LAW OFFICE
440 SCIENCE DR.
SUITE 302
MADISON, WI 53711

Date Mailed: 07/26/2006

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)

Alejandro O. Dee, Roselle, IL;
Randal D. Stevenson, Romeoville, IL;

Power of Attorney: The patent practitioners associated with Customer Number **39231**.

Domestic Priority data as claimed by applicant

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/051,501

Projected Publication Date: 08/10/2006

Non-Publication Request: No

Early Publication Request: No

Title

Peracetic teat dip

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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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DEAN A. CRAINE
400- 112TH AVE., STE. 140
BELLEVUE WA 98004

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In re Application of	:	
Timothy J. SMITH	:	
Application No. 11/051,511	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. SMTJ 101	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 27, 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 Dean A. Craine on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

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

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Timothy Jon Smith
18132 Bothell Way NE, Suite B-4
Bothell, WA 98011

cc: Dean A. Craine
400- 112TH Avenue, Suite 140
Bellevue, WA 98004

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

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OCT 25 2005

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No.: 11/051,512 :
Filed: February 4, 2005 :
Attorney Docket No.: 13854-077001 :
For: INTEGRATED OPTICAL MULTIPLEXER AND DEMULTIPLEXER

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed October 11, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(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 February 4, 2005 without an executed declaration. On March 11, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath/declaration, filing fees, and a surcharge for their late filing. In response, on October 11, 2005, petitioners submitted a request for a five month extension of time and required fee, filing fees, the surcharge, a declaration executed by 3 of 4 joint inventors, and a $130.00 Rule 47 petition.[1] The petition is accompanied by a declaration by Attorney Brian J. Gustafson that states that Mr. Yiqiang Li, the non-signing inventor, was mailed two copies of the declaration and power of attorney form for his signature and Mr. Li has not returned a signed declaration. In addition, Mr. Li's wife told Attorney Gustafson that her husband would not sign the declaration.

[1]The Rule 47 petition fee is currently $200.00. Petitioners paid only $130.00. Pursuant to petitioners' authorization, deposit account no. 06-1050 will be charged the $70.00 balance due.

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 items (1) and (2) 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). Attorney Gustafson's declaration does not establish that Mr. Li was mailed a copy of the complete application.

Mr. Li must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. Mr. Li cannot make the necessary statements found in the declaration-- i.e. "I have reviewed and understand..." -- without having examined the patent application. When petitioners can show that Mr. Li was mailed and 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.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented.

The declaration contains noninitialed, nondated alteration to Qunwen Leng's information, specifically, his post office address. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. 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. See MPEP 605.04(a). An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Leng can correct his information on a supplemental declaration identifying the entire inventive entity and their information, but signed only by him.

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

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

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

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

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: BRIAN J. GUSTAFSON
FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of Lee, et al. Application No.: 11/051,512 Filed: February 4, 2005 Attorney Docket No.: 13854-077001 For: INTEGRATED OPTICAL MULTIPLEXER AND DEMULTIPLEXER	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed November 18, 2005.

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor, Yiqiang Li, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration/statement of facts of Attorney Brian J. Gustafson that states that Mr. Yiqiang Li, the non-signing inventor, was mailed a copy of the application along with a combined declaration and power of attorney document for his signature and that Mr. Li has not returned a signed declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

Petitioners were erroneously charged two Rule 47 petition fees. Pursuant to petitioners' authorization, deposit account no. 06-1050 will be credited one of the two $200.00 fees.

After this decision is mailed, the above-identified application will be forwarded to Technology Center A.U. 2655 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: BRIAN J. GUSTAFSON
FISH & RICHARDSON P.C.
500 ARGUELLO STREET, SUITE 500
REDWOOD CITY, CA 94063

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YIQIANG LI
2283 WOODBURY COURT
SAN JOSE, CA 95121

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FEB 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Lee, et al.	:	
Application No.: 11/051,512	:	LETTER
Filed: February 4, 2005	:	
Attorney Docket No.: 13854-077001	:	
For: INTEGRATED OPTICAL MULTIPLEXER AND DEMULTIPLEXER		

Dear Mr. Li:

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, the contact person listed 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: FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS, MN 55440-1022

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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN OK 73536-0440

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OFFICE OF PETITIONS

In re Application of :
Jody L. MARESH :
Application No. 11/051,538 : DECISION ON PETITION
Filed: February 04, 2005 :
Attorney Docket No. **HES 2003-IP-011801U2** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 02, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 27, 2007, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 28, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of November 27, 2007 is accepted as having been unintentionally delayed.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application file is being referred to Technology Center AU 1796 for appropriate action on the concurrently filed amendment.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **KAREN B. TRIPP, ATTORNEY AT LAW**
P.O. BOX 1301
HOUSTON, TX 77251-1301

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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 :
HARPER, W. Jack :
Application No. 11/051,544 :
Filed: February 4, 2005 :
Attorney Docket No. **040172-000910US** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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 William F. Vobach on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JACK W. HARPER**
5359 EVERGREEN HEIGHTS
EVERGREEN, CO 80439

cc: **BSI2000, INC.**
1153 BERGEN PARKWAY, SUITE M350
EVERGREEN, CO 80439

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090811

DATE : August 11, 2009

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,480,354

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/Michael RAZAVI/
Supervisory Patent Examiner, Art Unit 2672

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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

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OCT 20 2009

OFFICE OF PETITIONS

IN RE APPLICATION OF :
Clay Davis et al. :
APPLICATION NO. 11/051,564 : ON PETITION
FILED: February 4, 2005
ATTORNEY Docket No: **BMC1110-2**

This is a decision on the petition filed January 27, 2009, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

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 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

This application became abandoned December 12, 2008 for failure to pay the issue fee within three months of the mailing of the Notice of Allowance, September 11, 2008, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed January 7, 2009.

The file record discloses that the Notice was mailed to what was believed to be the address of record, the same address to which the Notice of Abandonment was mailed. However, petitioner contends that it was not received.

The requirement under 37 CFR 1.181, is that petitioner review the docket records and submit copies of the actual docket records or file jacket to show non-receipt. That requirement has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication and therefore could not respond timely. In the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received at the address of record.

While petitioner has provided "docket records" which appear to be the docket record for the instant matter, petitioner has not submitted docket records in accordance with M.P.E.P. 711.03(c) and pursuant to Delgar Inc. v. Schuyler, 172 USPQ 513, which includes the **"Master Docket"**. Instead, the evidence includes pages from the docket for the instant matter and the file jacket for the instant matter.[1]

In view thereof, the holding of abandonment cannot be withdrawn.

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

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

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the **master docket report** showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. **If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.**

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

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

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

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

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

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

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

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United States Patent and Trademark Office
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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

MAILED

JAN 15 2010

OFFICE OF PETITIONS
ON PETITION

IN RE APPLICATION OF
Clay Davis et al.
APPLICATION NO. 11/051,564
FILED: February 4, 2005
ATTORNEY Docket No: **BMC1110-2**

This is a decision on the renewed petition filed December 18, 2009, under 37 CFR 1.181, to withdraw the holding of abandonment, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **GRANTED.**

This application became abandoned December 12, 2008 for failure to pay the issue fee within three months of the mailing of the Notice of Allowance, September 11, 2008, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed January 7, 2009. A petition filed January 27, 2009 under 37 CFR 1.181arguing that the Notice of Allowance was not received, was dismissed in a decision mailed October 20, 2009 because the requirement under 37 CFR 1.181, to submit copies of the actual docket records or file jacket, including the "Master Docket", to show non-receipt had not been met.

Comes now petitioner with copies of the "Master Docket" to show that the Notice of Allowance mailed September 11, 2008 was not received.

In that the statement from the petitioner and the exhibits from the "Master Docket", show no entry indicating receipt of the Notice of Allowance mailed September 11, 2008, it is apparent that it was not received.

The evidence submitted corroborates non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance mailed September 11, 2008 was never received at the address of record.

Accordingly, the Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2141 for a re-mailing of the Notice of Allowance and Notice of Allowability and for a restarting of the period for response.

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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OFFICE OF PETITIONS

LOWRIE, LANDO & ANASTASI
RIVERFRONT OFFICE
ONE MAIN STREET, ELEVENTH FLOOR
CAMBRIDGE, MA 02142

In re Application of
Christine C. HUTTIN
Application No. 11/051,565
Filed: February 4, 2005
Attorney Docket No. H2009-700010

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 1, 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 Lisa E. Winsor on behalf of all attorneys of record who are associated with customer No. 37462.

All attorneys/agents associated with the Customer Number 37462 have been withdrawn.

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

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

There are no pending Office actions at the present time.

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

April Wise
Petitions Examiner
Office of Petitions

cc: CHRISTNE C. HUTTIN
1770 MASSACHUSETTS AVENUE,
BOX 284
CAMBRIDGE, MA 02140

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STAINBROOK & STAINBROOK, LLP
412 AVIATION BOULEVARD
SUITE H
SANTA ROSA CA 95403

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In re Application of	:	
John A. Macken	:	
Application No. 11/051,569	:	ON PETITION
Filed: February 3, 2005	:	
Attorney Docket No. 00646.P4US	:	

This is a decision on the petition under 37 CFR 1.137(a) filed September 3, 2008.

The petition is **GRANTED.**

This application became abandoned for failure to timely reply to the final Office action mailed January 11, 2008, which set a shortened statutory period for reply of three months from its mailing date. A response was not received within the allowable period, and the application became abandoned on April 12, 2008. A Notice of Abandonment was mailed on August 6, 2008.

Petitioner has established that a response to the final Office action was transmitted via facsimile on April 11, 2008.

The file is now being directed to Technology Center 3600, GAU 3673 for further processing, including consideration of the amendment filed April 11, 2008, a copy of which was filed with the instant petition on September 3, 2008. Petitioner is advised that if the examiner determines that the amendment fails to place the application in condition for allowance the application will again become abandoned for failure to file a proper reply to the final Office action mailed January 11, 2008.

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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Ingrassia Fisher & Lorenz, P.C. (Boeing)
7150 E. Camelback Road
Suite 325
Scottsdale, AZ 85251

ON PETITION

In re Application of
James V. Eveker et al.
Application No. 11/051,595
Filed: February 4, 2005
Attorney Docket No. 024.0173D1 (02-0866A)

This is a decision on the petition under 37 CFR 1.137(b), filed March 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 July 14, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 17, 2006.

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

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

The application file is being referred to Technology Center AU 3643 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

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fCOMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

Joseph D. Udy
c/o Hoovestol
P.O. Box 19318
Colorado City CO 81019-0318

In re Application of	:	
Udy	:	
Application No. 11/051,604	:	DECISION ON PETITION
Filed: February 4, 2005	:	PURSUANT TO
Title: LASER PULSE IMAGE	:	37 C.F.R. § 1.137(A)
SWITCHES	:	

This is a decision on the petition filed July 27, 2009, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **DISMISSED**.

BACKGROUND

On November 17, 2008, Applicant submitted a Notice of Appeal, the fee that is associated with the filing of a Notice of Appeal, and an Appeal Brief. The above-identified application became abandoned for failure to submit the fee that is associated with the filing of an Appeal Brief within two-months of the filing of the Notice of Appeal. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 18, 2009. A Notice of Abandonment was mailed on July 17, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 41.37(a)(1) sets forth, *in toto*:

> Appellant must file a brief under this section within two months from the date of filing the notice of appeal under § 41.31.

M.P.E.P. § 1205.01 sets forth, *in pertinent part*:

> Although failure to file the brief and the required appeal brief fee within the permissible time will result in dismissal of the appeal, if any claims stand allowed, the application does not become abandoned by the dismissal, but is returned to the examiner for action on the allowed claims. See MPEP § 1215.04. **If there are no allowed claims, the application is abandoned as of the date the brief was due** (emphasis added). Claims which have been objected to as dependent from a rejected claim do not stand allowed. In a reexamination proceeding failure to file the brief will result in the issuance of the certificate under 37 CFR 1.570 or 1.997. If the time for filing a brief has passed and the application has consequently become abandoned, the applicant may petition to revive the application under 37 CFR 1.137, as in other cases of abandonment. See MPEP § 711.03(c). If the appeal is dismissed, but the application is not abandoned because there is at least one allowed claim, the applicant may file a petition< to reinstate the claims and the appeal, but a showing equivalent to that in a petition to revive under 37 CFR 1.137 is required. See MPEP § 711.03(c). In addition to the petition and petition fee, appellant must file:
>
> (A) A request for continued examination (RCE) under 37 CFR 1.114 accompanied by a submission (i.e., a reply under 37 CFR 1.111) and the fee as set forth in 37 CFR 1.17(e) if the application is a utility or plant application filed on or after June 8, 1995, or a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application); or
> (B) An appeal brief and the appeal brief fee to reinstate the appeal. A proper brief and the required fee must be filed before the petition will be considered on its merits.

The Applicable Standard

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference.[1]

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1 Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency's interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific

> [T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense.[2]
>
> The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'[3]
>
> The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency.[4]

The burden of showing the cause of the delay is on the person seeking to revive the application.[5]

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[6]

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

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issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

2 Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

3 Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. 706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

4 Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

5 Id.

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

> said to be unavoidable, all other conditions of promptness in its rectification being present.
>
> In re Mattullath, 38 App. D.C. 497 (D.C. Cir. 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).

As such, the general question asked by the Office is: "[d]id petitioner act as a reasonable and prudent person in relation to his most important business?"

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[7]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[8]

ANALYSIS

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

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner has included the fee that is associated with the filing of an Appeal Brief, the petition fee, and a statement. The first and second requirements of Rule 1.137(a) have been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[9]

Regarding the third requirement, with this petition pursuant to 37 C.F.R. § 1.137(a), Petitioner appears to have asserted that

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7 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
9 See Rule 1.137(d).

this application went abandoned due to his lack of awareness of the need to submit a fee when filing an Appeal Brief, coupled with the fact that the Office did not notify him of his failure to submit the requisite fee, prior to the abandonment of this application.[10]

Regarding the first assertion, Petitioner failed to fully comply with 37 C.F.R. § 41.37(a)(1) within the allotted period of time, and as such, this application became abandoned by operation of law. See M.P.E.P. § 1205.01[11] (the final Office action of February 21, 2008 has been reviewed, and it is noted that there were no allowed claims). A reasonable and prudent person, acting in relation to his most important business, would have reviewed the relevant portions of the C.F.R. and M.P.E.P. and made himself aware of the need to submit the fee.

Regarding the second assertion, this application did not go abandoned as a result of the Office's failure to notify Applicant of his failure to submit the requisite fee; it went abandoned as a direct result of Applicant's failure to submit said fee.

It follows that the record does not support a finding that the entire period of delay was unavoidable. **The present set of facts might result in a finding of unintentional delay, but it does not rise to the level of unavoidable.**

CONCLUSION

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

Unless Petitioner believes that he can successfully assert that the entire period of delay was unavoidable, he may wish to file a petition pursuant to the unintentional standard (37 C.F.R. § 1.137(b)).

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10 Statement of facts submitted concurrently with this petition, page 2. It is noted that the page contains a header which reads "page 5 of 7 P."
11 If there are no allowed claims, the application is abandoned as of the date the brief was due.

Any subsequent filing pertaining to the abandonment of this application should indicate 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, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[16] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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
16 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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OFFICE OF PETITIONS

Joseph D. Udy
c/o Hoovestol
P.O. Box 19318
Colorado City CO 81019-0318

In re Application of	:	
Udy	:	
Application No. 11/051,604	:	DECISION ON PETITION
Filed: February 4, 2005	:	PURSUANT TO
Title: LASER PULSE IMAGE	:	37 C.F.R. § 1.137(B)
SWITCHES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 20, 2009, to revive the above-identified application.

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

On November 17, 2008, Applicant submitted a Notice of Appeal, the fee that is associated with the filing of a Notice of Appeal, and an Appeal Brief. The above-identified application became abandoned for failure to submit the fee that is associated with the filing of an Appeal Brief within two-months of the filing of the Notice of Appeal. No extensions of time pursuant to 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 18. 2009. A Notice of Abandonment was mailed on July 17, 2009.

A petition pursuant to 37 C.F.R. § 1.137(a) was filed on July 27, 2009, along with the fee that is associated with the filing of an Appeal Brief, the petition fee, and was dismissed via the mailing of a decision on October 13, 2009.

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

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

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. As such, requirements one through three of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the appeal brief which was received on November 17, 2008 can be processed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CANTOR COLBURN, LLP
55 Griffin Road South
Bloomfield, CT 06002

In re Application of	:	DECISION ON REQUEST TO
Hyun Hang YONG et al.	:	PARTICIPATE IN PATENT
Application No. 11/051610	:	PROSECUTION HIGHWAY
Filed: February 4, 2005	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 4795-0142PUS1	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed July 23, 2008, and the preliminary amendment, filed August 1, 2005, to make the above-identified application special.

The request and petition are **DISMISSED**.

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, note where the KIPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the KIPO application with similar claims and the KIPO priority application;
(2) Applicant must submit a copy of:
- a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
- b. An English translation of the allowable/patentable claim(s), if applicable; and
- c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
- a. Ensure 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); and
- b. Submit a claims correspondence table in English

(4) Examination of the U.S. application has not begun;
(5) Applicant must submit:
- a. Documentation of prior office action:
  - i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from

each of the KIPO application(s) containing the allowable/patentable claims(s) or

ii. if the allowable/patentable claims(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or

iii. if the KIPO application is a first action allowance then no office action from the KIPO is necessary should be indicated on the request/petition form;

Further, if a copy of the documents from a or b above is available via the Dossier Access System (DAS), applicant may request the USPTO obtain a copy from the SAD; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;

b. An English language translation of the KIPO Office action from (5) (a)(i)-(ii) above, if applicable; and

c. A statement that the English translation is accurate;

(6) Applicant must submit:

a. An IDS listing the documents cited by the KIPO examiner in the KIPO office action
(unless already submitted in this application)

b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition fails because:

(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 Korean Patent Office application(s);
In the amendment filed on August 1, 2005 in the US application, Claim 1 does not include the following "a size of pores ranges from 0.001 to 10 μm; and the binder polymer has a solubility parameter between 17.0 and 30 [$J^{1/2}/cm^{3/2}$] depending on an electrolyte used" as included in Claim 1 of the JP allowed claims. Claims 4-7 of the US application is dependent on Claim 1 where Claims 4-7 of the JP application is dependent upon Claim 2. Claim 15 in the JP application has been cancelled where in the US case it is still pending. Claim 24 of the US application is dependent on Claim 22 where Claim 24 of the JP application is dependent upon Claim 23.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, from the mailing date of this decision to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Telephone inquiries concerning this decision should be directed to Kathryn Gorgos at 571 272-1012.

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.

Kathryn Gorgos
TC 1700 TQAS

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

CST

SEP 16 2008

In re application of Hyun Hang Yong et al Serial No. 11/051,610 Filed: February 4, 2005 For: ORGANIC/INORGANIC COMPOSITE POROUS LAYER-COATED ELECTRODE AND ELECTROCHEMICAL DEVICE COMPRISING THE SAME	:	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 renewed request to participate in the Patent Prosecution Highway (PPH) program, together with the preliminary amendment, both filed August 22, 2008.

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, note where the KIPO application with similar claims is not the same application from which the U.S. application claims priority that the applicant must identify the relationship between the KIPO application with similar claims and the KIPO priority application;

(2) Applicant must submit a copy of:

a. The allowable/patentable claim(s) from the KIPO application(s) or if a copy of the allowable/patentable claims is available via the Dossier Access System (DAS) applicant may request the USPTO to obtain a copy from DAS; however, if the USPTO is unable to obtain a copy from the DAS, the applicant will be required to submit a copy;
b. An English translation of the allowable/ patentable claim(s), if applicable; and
c. A statement that the English translation is accurate, if applicable;

(3) Applicant must:
   a. Ensure 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); and
   b. Submit a claims correspondence table in English;

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit:
   a. Documentation of prior office action:
      i. a copy of the office action(s) just prior to the "Decision to Grant a Patent" from each of the KIPO application(s) containing the allowable/patentable claims(s) or
      ii. if the allowable/patentable claim(s) are from "Notification of Reasons for Refusal" then the Notification of Reasons for Refusal or
      iii. if the KIPO application is a first action allowance then no office action from the KIPO is necessary should be indicated on the request/petition form:

      Further, if a copy of the documents from a or b is available via the Dossier Access System (DAS), applicant may request the USPO obtain a copy from the DAS; however, if the USPTO is unable to obtain a copy of the DAS, the applicant will be required to submit a copy;
   b. An English language translation of the KIPO Office action from (5)(a)(i)-(ii) above if applicable; and
   c. A statement that the English translation is accurate;

(6) Applicant must submit:
   a. An IDS listing the documents cited by the KIPO examiner in the KIPO office action (unless already submitted in this application)
   b. Copies of documents except U.S. patents or U.S. patent application publications (unless already submitted in this application); 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.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

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.

/Christine Tierney/

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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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SEP 16 2008

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

In re Application of	:	
Kei Hayasaki et al	:	
Application No. 11/051,617	:	DECISION GRANTING PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 04329.3481-00000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 12, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 06/04/07

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/051631** Patent No.: **7198918**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: Please amend title of invention as requested by applicants in petition filed 5/23/07

SPE

1646
Art Unit

11/051 631

OIPE IAP97
MAY 23 2007
PATENT & TRADEMARK OFFICE

PATENT
8012-1128-2

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Seiji SAKANO et al.

Patent No. 7,198,918

Issued April 3, 2007

NUCLEIC ACID ENCODING A HUMAN SERRATE-1 POLYPEPTIDE

Office of Publications

Certificate of Corrections Branch

Attn: Cecelia Newman

OK to enter PM 2/11/08

PETITION FOR CERTIFICATE OF CORRECTION

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

May 23, 2007

Sir:

It is respectfully requested that a certificate be issued, correcting the following error:

Amend the title to read as follows:

--NUCLEIC ACID ENCODING A HUMAN DELTA-1 POLYPEPTIDE--

Certificate
MAY 29 2007
of Correction

REMARKS

Patentees respectfully request that the title of the invention be amended to recite a "NUCLEIC ACID ENCODING A HUMAN DELTA-1 POLYPEPTIDE".

The claimed invention is directed to nucleic acids encoding a human Delta-1 polypeptide. Accordingly, the title should be changed so that the claimed subject matter can be readily identified.

The Director is hereby authorized to charge the fee of $100 for providing a correction of patentees' patent pursuant to

05/24/2007 YPOLITE1 00000092 250120 7198918
01 FC:1811 100.00 DA
MAY 29 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/051,643	01/27/2005	Kouichi Nagai	052057	1106

38834 7590 08/31/2009
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER
SMITH, MATTHEW S

ART UNIT	PAPER NUMBER
2823	

NOTIFICATION DATE	DELIVERY MODE
08/31/2009	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):

patentmail@whda.com

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11051643	1/27/2005	NAGAI ET AL.	052057

EXAMINER
MATTHEW SMITH

ART UNIT	PAPER
2823	20090817

DATE MAILED:

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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

Commissioner for Patents

A Decision on applicant's "Petition to Delete Originally Named Inventors" has been made and accompanies this letter.

/Matthew S. Smith/
Supervisory Patent Examiner, Art Unit 2823

Matthew S. Smith
SPE
Art Unit: 2823

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 081509

Michael J. Cairdi
Westerman, Hattori, Daniels & Adrian, LLP
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036

Appl No.: 11/051,643	:	
Inv: Nagia et al.	:	**DECISION ON PETITION**
Filed: January 27, 2005	:	**UNDER** *37 CFR 1.48(b)*
For: Semiconductor Device and Method for Fabricating the Same	:	

This is a decision on the applicant's "Petition to Delete Originally Named Inventors to a Patent Application" filed under 37 CFR 1.48(b) on July 14, 2009. The applicant requests that the names of Kouichi Nagai and Hideaki Kikuchi be deleted from the list of inventors as originally filed, namely, Kouichi Nagai, Hideaki Kikuchi, Yasutaka Ozaki and Naoya Sashida. This is due to the portion of the contribution of Inventors Nagai and Kikuchi is no longer being claimed in the present application because of amendments in the prosecution history.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48(b), the petition is hereby **granted**.

This paper and amendments made to the inventorship will be placed in the file and notice sent to the Technical Support Staff to correct the inventorship in PALM.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY
AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON MA 02111

COPY MAILED
JUL 18 2008

In re Application of	:	
Ayalon-Soffer, et al.	:	
Application No. 11/051,646	:	DECISION
Filed: 27 January, 2005	:	
Attorney Docket No. 28800-520001US	:	

This is a decision on the petitions filed on 31 October, 2007, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and subsequently refilled on 19 May, 2008, and this time not only seeking relief under 37 C.F.R. §1.181 (improvidently stated as "37 C.F.R. §1.8" (sic)), but also seeking to revive the application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay or under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

The petition under:

- 37 C.F.R. §1.181 is **DISMISSED**;
- 37 C.F.R. §1.137(a) is **DISMISSED**;
- 37 C.F.R. §1.137(b) 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"; or, in the alternative, as a "Renewed Petition under 37 C.F.R. §1.137(a) and/or (b) to Revive an Application Abandoned Due to Unavoidable Delay and/or Unintentional Delay." (Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

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

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

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

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

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

As to Allegations of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

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.)

Not Alternative Standards

The "unavoidable" delay and "unintentional" delay standards are not alternatives: an "unavoidable" delay is the epitome of an "unintentional" delay. A petition under 37 CFR 1.137 cannot be granted unless it meets the minimal "unintentional" delay threshold. Thus, an intentional delay precludes revival under either 37 CFR 1.137(a) (on the basis of "unavoidable" delay) or 37 CFR 1.137(b) (on the basis of "unintentional" delay). *See* In re Maldague, 10 USPQ2d 1477, 1478 (Comm'r Pat. 1988). The record indicates that petitioner, by deliberate intent, allowed this application to become abandoned, and that course of action precludes revival under 37 CFR 1.137.

Time for Prosecution

As those registered to practice before the Office, then-Petitioner and Petitioner are aware that the statutory period for timely, proper reply—i.e., the maximum allowable time for a proper reply—is six (6) months.

Specifically, Congress has provided (in pertinent part):

> **35 U.S.C. §133. Time for prosecution.**
>
> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the

application shall be regarded as abandoned by the parties thereto ***." (Emphasis supplied.)

BACKGROUND

The record reflects as follows:

Following the filing of the instant application on 27 January, 2005, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed on 6 May, 2005, a Notice to File Missing Parts (the 6 May, 2005, Notice), including therein, *inter alia*, the first of what would be a series of Notices to former Counsel (then-Petitioner) as to then-Petitioner's failure to comply with the requirement for patent applications containing nucleotide sequence and/or amino acid sequence disclosures, and the form of the 6 May, 2005, Notice, as with all such form Notices, set forth a shorted statutory period of two (2) months within which to reply to the 6 May, 2005, Notice.

Along with a request and fee for extension of time, on 8 August, 2005, then-Petitioner filed a 4,100-plus-page reply to the 6 May, 2005, Notice.

Upon review of then-Petitioner's 8 August, 2005, reply, on 16 February, 2006, OPAP mailed what was now the second Notice to Comply with the Requirement for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (NCRPA), reminding Petitioner again within the form Notice of the two (2) month reply period.

On 10 April, 2006 (and at this point in the process having taken approximately five (5) month to submit a reply to the original 6 May, 2005, Notice), then-Petitioner submitted a reply, which the Office reviewed on 10 and 13 April, 2006, and once again found errors in then-Petitioner's submission.

On 21 April, 2006, OPAP mailed a third NCRPA (the 21 April, 2006, NCRPA) to then-Petitioner.

On 19 June, 2006, then-Petitioner replied to the 21 April, 2006, NCRPA.

Having taken three (3) months to file the first reply, two (2) months to file the second reply and two (2) months to file the third reply, then-Petitioner had failed to reply to the original 6 May, 2005, Notice within the maximum statutory reply period, and the application had gone abandoned.

On 17 August, 2007, the Office, while acknowledging receipt of the 19 June, 2006, filing, mailed the Notice of Abandonment.

More than two months later, on 31 October, 2007, then-Petitioner filed the original petition under 37 C.F.R. §1.181, and—ignoring completely the fact that then-Petitioner had taken three attempts within seven months across roughly two and one-half years to reply to the NCRPA—demanded an explanation of why the Office deemed the application abandoned, notwithstanding the fact that then-Petitioner's 65-page submission is for all practical purposes a demonstration of that very explanation. Stated another way, rather than make a showing as to how then-Petitioner timely and properly replied to the original NCRPA contained in the 6 May, 2005, Notice of Missing Parts, then-Petitioner demonstrated how Petitioner failed to do so.

Thereafter, on 15 May, 2008, new Counsel (Petitioner) filed a Revocation/Power of Attorney, and at that time re-advanced the request for relief under 37 C.F.R. §1.181 (improvidently stated as "37 C.F.R. §1.8(b)" (sic)), and further sought to revive the application with a petition (with fee) under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay or a petitioner (with fee) under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay—and the fees then authorized now are charged to Deposit Account 50-0311 (Ref. 22058-520001US.

Notably, in that latter 15 May, 2008, filing Petitioner failed to make:

- the showing required under 37 C.F.R. §1.181 (as set forth earlier above); and
- respectively, the showing of unavoidable delay and/or the statement of unintentional delay

Accordingly, as to the 31 October, 2007, and the 19 May, 2008, petitions, then-Petitioner and Petitioner have failed to provide sufficient showing (as discussed above) thus, Petitioner's showing does not conform to the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively (see: the discussion at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c).

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

---

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

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

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

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

And Petitioner has failed in the 19 May, 2008, petitions to revive (under 37 C.F.R. §1.137(a) and 37 C.F.R. §1.137(b)) to satisfy the regulatory requirements as discussed above. (*See also*: the Commentary at MPEP §711.03(c).)

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

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

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

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

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

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

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

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

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

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

C.Treatment of Untimely Petition To Withdraw Holding of Abandonment

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

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

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.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. (*See*, for example: MPEP §711.03(c).) However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).) And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner failed to make the showing required and failed to seek relief timely.

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Petitioner failed to make the showing required.

---

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

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

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have not been satisfied (*i.e.*, the statement of unintentional delay).

CONCLUSION

Accordingly, The petition under:

- 37 C.F.R. §1.181 is **dismissed**;
- 37 C.F.R. §1.137(a) is **dismissed**;
- 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
- Attn: Office of Petitions

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MINTZ, LEVIN, COHN,
FERRIS, GLOVSKY
AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON MA 02111

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OFFICE OF PETITIONS

In re Application of	:	
Ayalon-Soffer, et al.	:	
Application No. 11/051,646	:	DECISION
Filed: 27 January, 2005	:	
Attorney Docket No. 28800-520001US	:	

This is a decision on the petition (renewed) filed on 5 August, 2008, seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Following the filing of the instant application on 27 January, 2005, the Office of Patent Application Processing (OPAP) (formerly the Office of Initial Patent Examination (OIPE)) mailed on 6 May, 2005, a Notice to File Missing Parts (the 6 May, 2005, Notice), including

therein, *inter alia*, the first of what would be a series of Notices to former Counsel (then-Petitioner) as to then-Petitioner's failure to comply with the requirement for patent applications containing nucleotide sequence and/or amino acid sequence disclosures, and the form of the 6 May, 2005, Notice, as with all such form Notices, set forth a shorted statutory period of two (2) months within which to reply to the 6 May, 2005, Notice.

Along with a request and fee for extension of time, on 8 August, 2005, then-Petitioner filed a 4,100-plus-page reply to the 6 May, 2005, Notice.

Upon review of then-Petitioner's 8 August, 2005, reply, on 16 February, 2006, OPAP mailed what was now the second Notice to Comply with the Requirement for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (NCRPA), reminding Petitioner again within the form Notice of the two (2) month reply period.

On 10 April, 2006 (and at this point in the process having taken approximately five (5) month to submit a reply to the original 6 May, 2005, Notice), then-Petitioner submitted a reply, which the Office reviewed on 10 and 13 April, 2006, and once again found errors in then-Petitioner's submission.

On 21 April, 2006, OPAP mailed a third NCRPA (the 21 April, 2006, NCRPA) to then-Petitioner.

On 19 June, 2006, then-Petitioner replied to the 21 April, 2006, NCRPA.

Having taken three (3) months to file the first reply, two (2) months to file the second reply and two (2) months to file the third reply, then-Petitioner had failed to reply to the original 6 May, 2005, Notice within the maximum statutory reply period, and the application had gone abandoned.

On 17 August, 2007, the Office, while acknowledging receipt of the 19 June, 2006, filing, mailed the Notice of Abandonment.

More than two months later, on 31 October, 2007, then-Petitioner filed the original petition under 37 C.F.R. §1.181, and—ignoring completely the fact that then-Petitioner had taken three attempts within seven months across roughly two and one-half years to reply to the NCRPA—demanded an explanation of why the Office deemed the application abandoned, notwithstanding the fact that then-Petitioner's 65-page submission is for all practical purposes a demonstration of that very explanation. Stated another way, rather than make a showing as to how then-Petitioner timely and properly replied to the original NCRPA contained in the 6 May, 2005, Notice of Missing Parts, then-Petitioner demonstrated how Petitioner failed to do so.

Thereafter, on 15 May, 2008, new Counsel (Petitioner) filed a Revocation/Power of Attorney, and at that time re-advanced the request for relief under 37 C.F.R. §1.181 (improvidently stated as "37 C.F.R. §1.8(b)" (sic)), and further sought to revive the application with a petition (with

fee) under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay or a petitioner (with fee) under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay—and the fees then authorized now are charged to Deposit Account 50-0311 (Ref. 22058-520001US. Notably, in that latter 15 May, 2008, filing Petitioner failed to make the showing required under 37 C.F.R. §1.181 (as set forth earlier above); and respectively, the showing of unavoidable delay and/or the statement of unintentional delay (and the statements/showings were not made by one who had control of the prosecution of the application at the time it went abandoned). Thus, the petitions were dismissed on 18 July, 2008.

On 5 August, 2008, Petitioner filed the instant petition with fee, with a copy of the previously submitted reply, and a statement of unintentional delay by the Assignee.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to OPAP for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the OPAP in response to this decision. It is

[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).

noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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PLEVY HOWARD & DARCY, P.C.
P.O. BOX 226
FORT WASHINGTON, PA 19034

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OFFICE OF PETITIONS

In re Application of	:	
Steven Petrucelli	:	
Application No. 11/051,650	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. MSI-333	:	

This is a decision on the petition filed February 2, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed October 3, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on January 4, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No.

MORGAN, LEWIS & BOCKIUS LLP (SF)
One Market, Spear Street Tower, Suite 2800
San Francisco CA 94105

COPY MAILED
MAR 17 2010

In re Application of	:	
Carter et al.	:	
Application No. 11/051,666	:	ON APPLICATION FOR
Filed: February 4, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 061873-5010US	:	
Title: CYANINE DYES	:	

This is in response to the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)," filed January 5, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is at least nine hundred and forty-four (944) days, not three hundred and forty-nine (349) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Steven R. Sedlmayr
6538 N. 41st Street
Paradise Valley, Arizona 85253

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SEP 02 2005

Director's Office
Group 3700

In re Application of
Steven R. Sedlmayr
Serial No. 11/051,672
Filed: February 5, 2005

DECISION ON PETITION TO MAKE SPECIAL

For: MICROWAVE FLUID HEATING AND DISTILLATION METHOD

Applicant's petition, filed February 5, 2005, seeks to have this application made special based upon the Environmental Quality Program and the Energy Conservation Program.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(V) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch
Technology Center 3700
571-272-3750

rt/ 9/01/05

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AUG 14 2007

Paper No. 08/07/07

Joe McKinney Muncy
Birch, Stewart, Kolasch, & Birch, LLP
P.O. Box 747
Falls Church, VA 22040-0747

In re Application of: TZU, Chung-Hsing Serial No.: 11/051677 Filed: February 7, 2005	PETITION FOR CORRECTION OF INVENTORSHIP UNDER 37 CFR § 1.48(a)

This is a decision on the petition filed August 15, 2005 to correct inventorship under 37 CFR 1.48 (a).

The petition is GRANTED.

In view of the papers filed August 15, 2005 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48 (a). The inventorship of this application has been changed by adding the name: CHANG, Shih Yi

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Zandra V. Smith
Supervisory Patent Examiner,
Art Unit 2822

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9035 South 1300 East, Suite 200
Sandy, UT 84094
Ph: (801) 272-8368
Fax: (801) 748-1030

FAX COVER SHEET

DATE:	November 21, 2008
FAX #:	571-273-8300
TO:	PETITIONS OFFICE
FROM:	Gaylene Brown, Assistant
RE:	Petitions for Serial Nos.: 11/306,954 and 11/051,683

Number of Pages including cover page: 3

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Raymond W. Stock	Assignee: Healthy Soils, Inc.
Serial No.:	11/051,683	Art Unit: 1797
Filing Date:	02/04/2005	Examiner: BARRY, Chester T.
Recordation Date:	11/04/2008	
Title:	Biological Composition for Processing Animal Waste	
Docket No.:	3188.2.3 NP	

CERTIFICATE OF CORRECTION PETITION MEMO

Petitions Office
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

The undersigned hereby petitions that the document(s) sent to the Petitions Office earlier this month asking for waiver of rules be disregarded and the $130 Credit Card Payment not be cashed. The date on the Credit Card payment was 11/17/08.

Thank you.

Respectfully Submitted,

Michael W. Starkweather
Registration No. 34,441
Attorney for Applicant

Date: 11/24/08

9035 South 1300 East
Suite 200
Sandy, Utah 84094
Telephone: 801/272-8368

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OFFICE OF PETITIONS

In re Application of Pollock, et al. Application No. 11/051,720 Filed: January 27, 2006 Attorney Docket No. 1847.1002//28800-515001US	: : : : :	DECISION ON PETITION

This is a decision on the petition, filed February 22, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of June 11, 2007, which set an extendable three (3) month shortened statutory period for reply. The Office contends no timely reply was received.

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 October 11, 2007 of, *inter alia,* an amendment, a declaration under 37 CFR 1.132, and a check for $120.00 for a one month extension of time. A copy of the previously submitted reply accompanies the petition.

It is noted that a check for $120.00 was negotiated on October 12, 2007.

The amendment and declaration acknowledged as having been received in the USPTO on October 11, 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 amendment and declaration were 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 October 11, 2007.

The Revocation/Power of Attorney, filed on May 13, 2008, has been accepted and made of record. Please find enclosed a Notice reflecting the change.

This application is being referred to Technology Center AU 1643 for appropriate action in the normal course of business on the reply received with petition.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice regarding power of attorney

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
11/051,720	01/27/2005	Sarah Pollock	1847.1002

CONFIRMATION NO. 6462

POA ACCEPTANCE LETTER

30623
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ATTN: PATENT INTAKE CUSTOMER NO. 30623
ONE FINANCIAL CENTER
BOSTON, MA 02111

OC000000029953788

Date Mailed: 05/15/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/13/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/051,720	01/27/2005	Sarah Pollock	1847.1002

CONFIRMATION NO. 6462

POWER OF ATTORNEY NOTICE

21171
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

OC000000029953765

Date Mailed: 05/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/13/2008.

- 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).

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

MAILED

MAR 26 2010

OFFICE OF PETITIONS

In re Patent of Pollock et al.	:	DECISION ON REQUEST
Patent No. 7,569,662	:	FOR RECONSIDERATION OF
Issue Date: August 4, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/051,720	:	AND NOTICE OF INTENT TO
Filing Date: January 27, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 28800-515001US	:	CORRECTION

This is a decision on the petition filed on October 5, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the above-identified patent is extended or adjusted by six hundred ninety-five (695) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by six hundred ninety-five (695) days is **GRANTED**.

The patent term adjustment on the patent included a reduction of 123 days for drawings filed after allowance and included an increase of 40 days for delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

Patentees have established the 123-day reduction was improper because drawings were not actually filed after the Office mailed the Notice of Allowance.

Patentees have established the period of B Delay is 555 days.

Patentees have established 211 of the 555 days of B Delay overlap with 211 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay").

Patentees have established the total patent term adjustment is 695 days which is the sum of 515 days of A Delay and 555 days of B delay reduced by 211 days of overlapping A and B Delay and reduced by 164 days of Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **six hundred ninety-five (695)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,569,662 B2	
ISSUE DATE	:	August 4, 2009	**DRAFT**
INVENTOR(S)	:	Pollock et al.	

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 268 days.

Delete the phrase "by 268 days" and insert - by 695 days--

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of :
Akiva et al. :
Application No. 11/051,725 : ON PETITION
Filed: January 27, 2005 :
Attorney Docket No. 1847.1010 :

This is in response to the petition under 37 CFR 1.47(a), filed July 25, 2005. Applicants obtained an extension of time for response within the first month. Therefore, the petition is filed timely.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

In the present petition, applicants stated that they mailed copies of the declaration and assignment documents to non-signing inventors, Meloon, Mintz, Xie, Zhu, and Wasserman as evidenced by the UPS Tracking documents.[1] Applicants asserted that these inventors did not sign and return the declaration and assignment documents.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

Applicants lack item (1) as set forth above.

[1] Applicants stated that they enclosed 6 pages of UPS tracking documents with the present petition, which showed delivery of the declaration to the non-signing inventors. Unfortunately, these documents were not located among the papers submitted on petition.

As to item (1), it appears that applicants did not mail the non-signing inventors a complete copy of the application papers, including the specification, claims, and drawings. Rather, applicants mailed the inventors only copies of the declaration and an assignment documents for the inventors' signatures. Unless applicants presented the non-signing inventors with a complete copy of the application papers, including the specification, claims and drawings, they could not attest that they "reviewed and understand the application papers," and therefore, could not sign the declaration that they were given. Accordingly, applicants failed to show or provide proof that the non-signing inventors refused to sign the declaration. See MPEP 409.03(d).

To show that the inventors refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to the non-signing inventors, personally or through their designated representative, and that they did not respond to the request that they sign the declaration. The circumstances of any refusal to join in the filing of the application must be made by all persons with firsthand knowledge of the event. In this case, it is unclear if applicants submitted a statement of the facts by a person who mailed the documents to the non-signing inventors and had firsthand knowledge of the facts concerning the refusal to join in the filing of the application.

The petition is dismissed.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

COPY MAILED

DEC 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Akiva et al.	:	DECISION ACCORDING STATUS
Application No. 11/051,725	:	UNDER 37 CFR 1.47(a)
Filed: January 27, 2005	:	
Attorney Docket No. 1847.1010	:	
Title: NOVEL CALCIUM CHANNEL	:	
VARIANTS AND METHODS OF USE	:	
THEREOF	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed November 23, 2005.

The petition is **granted**.

Applicant showed that the non-signing inventors refused to join in the filing of the above-identified application after applicant mailed them copies of the application papers. Specifically, the statement of facts of Tali Lailah established that applicant mailed complete copies of the application papers, including the specification, claims and drawings, the declaration and the assignment via UPS to the last known addresses of the non-signing inventors. Additionally, applicant submitted a copy of the declaration executed by inventor, Brian Meloon. At the time of filing the original petition, Mr. Meloon had not signed the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

Applicant submitted a petition fee of $200.00 with this renewed petition. A petition fee is not required upon filing a renewed petition under 37 CFR 1.47(a). Therefore, Deposit Account No. 19-3935 will be credit the $200.00 fee.

The 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION - WEST BLDG.
WINTON HILL BUSINESS CENTER - BOX 412
6250 CENTER HILL AVENUE
CINCINNATI OH 45224

9/27/07

In re Application of: Kondo, Masahiro Serial No.: 11/051,727 Filed: February 4, 2005 Docket: AA636M Title: PANT-TYPE DISPOSABLE GARMENT	DECISION ON PETITION

This is a decision on the petition received on March 26, 2007 seeking to withdraw the finality of the Office action mailed January 29, 2007.

The petition is **DISMISSED** as moot.

In the petition the petitioner asserts that the final rejection mailed January 29, 2007 was improper because the examiner issued the final rejection after an Appeal Brief was filed without reopening prosecution.

The record shows that:

1) On October 4, 2005 a first Office action was mailed indicating claims 13 and 14 would be allowed if rewritten in independent form.
2) On January 4, 2006 the applicant amended the claims.
3) On April 5, 2006 the examiner issued a Final Office action "constructively rejecting" claims 2, 5, 6, 9, 10, 11 and 14.
4) On June 5, 2006 the applicant submitted a Reply After Final asserting that there is no procedure in the MPEP permitting claims to be "constructively rejected" and that the claims were therefore not properly rejected.
5) The examiner issued an Advisory Action on June 27, 2006 stating the failure to use the formal manner to reject the claims was inadvertent and maintained the rejection.
6) On July 6, 2006 the applicant filed a Notice of Appeal, followed with an Appeal Brief on September 5, 2006.
7) On January 29, 2007, the examiner mailed a Final Rejection.

8) On March 26, 2007, the applicant filed the present petition along with an Amendment after Final.
9) On April 26, 2007 the examiner reopened prosecution in response to the March 26, 2007 appeal brief and issued a Non-Final Rejection.

In light of the fact that the prosecution of this application has since been re-opened, which is the relief the petitioner presently seeks, this petition has been rendered moot.

For the foregoing reasons, the relief requested by petitioner is moot. Specifically, the prosecution of the case has already been reopened.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3761. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571) 272-4856.

PETITION DISMISSED

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON MA 02199

COPY MAILED
JUL 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Benesch-Lee et al.	:	
Application No. 11/051,736	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. 219622/2025	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed June 15, 2006, to change the name of an inventor.

The petition is **GRANTED.**

The name will be changed from Frank **BENESCH** to Frank **BENESCH-LEE**.

This matter is being referred to Technology Center 3700 to await examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282. All other inquiries should be directed to the Technology Center.

Liana Chase
Petitions Examiner
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
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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
11/051,736	02/04/2005	3762	3495	19622/2025	16	91	12

CONFIRMATION NO. 3041
CORRECTED FILING RECEIPT
OC000000019509972
OC000000019509972

29933
PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

Date Mailed: 07/06/2006

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)

Frank Benesch-Lee, Cambridge, MA;
Victoria Margit Barbata, Providence, RI;
Robert Francis Valentini, Cranston, RI;
Herman H. Vandenburgh, Providence, RI;
Gregory Philip Crawford, Barrington, RI;

Assignment For Published Patent Application

Myomics, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **29933**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/241,618 09/11/2002
which is a CON of 09/252,324 02/18/1999 ABN
which claims benefit of 60/075,054 02/18/1998
and claims benefit of 60/086,370 05/22/1998

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/051,736

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Tissue sensor and uses thereof

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

COPY MAILED

APR 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Myoung Shik Kim	:	
Application No. 11/051,757	:	DECISION GRANTING
Filed: February 5, 2005	:	PETITION
Attorney Docket No. CU-4075 RJS	:	

This is a decision on the petition filed February 21, 2006, requesting that the above-identified application be accorded a filing date of February 4, 2005, rather than the presently accorded date of February 5, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

A grantable petition under 37 CFR 1.10(d) must include:

> (1) The filing of a petition 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 placement of the "Express Mail" number on the mailing label of the paper(s) or fee(s) that constitutes the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) A showing which establishes, to the satisfaction of the Director, 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.

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.

The showing under 37 CFR 1.10(d) must be corroborated by (1) evidence from the USPS, or (2) evidence that came into being after deposit and within one business day of the deposit of the correspondence as "Express Mail." Evidence from the USPS may be the "Express Mail" Corporate

Account Mailing Statement. Due to the questionable reliability of evidence from a party other than the USPS that did not come into being contemporaneously with the deposit of the correspondence with the USPS, 37 CFR 1.10(d) specifically requires that any petition under 37 CFR 1.10(d) be corroborated either by evidence from the USPS, or by evidence that came into being after deposit and within one business day after the deposit of the correspondence as "Express Mail. 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. Conversely, evidence created prior to the deposit of the correspondence as "Express Mail" with the USPS (e.g., an application transmittal cover letter, or a client letter prepared prior to the deposit of the correspondence); or created more than one business day after the deposit of the correspondence as "Express Mail" (e.g., an affidavit or declaration prepared more than one business day after the correspondence was deposited with the USPS as "Express Mail") cannot be accepted under the terms of the rule.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on February 4, 2005, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label No. EV580844815US showing an alleged wrong handwritten date-in of February 5, 2005; a Corporate Account receipt showing the aforementioned Express Mail label number and a date of February 4, 2005; and a Track & Confirm record from the USPS website, which shows a date of acceptance of the Express Mail package in question on February 4, 2005 for the aforementioned Express Mail label number. The same Express Mail label number appears on the application papers, which constitute the official file record for this case.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on February 4, 2005, as shown by the copy of the USPS Track & Confirm record and the Corporate Account statement submitted with the petition. Accordingly, this application is entitled to a filing date of February 4, 2005, and has been so accorded.

This application file is being referred to the Office of Initial Patent Examination (OIPE) for **correction of the filing date to** February 4, 2005 **and for issuance of a corrected filing receipt**. Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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DEC 0 2 2009

OFFICE OF PETITIONS

LAW OFFICES OF THOMAS E. SCHATZEL, P.C.
FAIRMONT PLAZA
SUITE 1300
50 W. SAN FERNANDO STREET
SAN JOSE, CA 95113

In re Patent No. 7,053,826	:	
Issue Date: May 30, 2006	:	
Application No. 11/051,761	:	NOTICE
Filed: February 3, 2005	:	
Attorney Docket No. SS-746-07	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 27, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Greg Pavlik	: DECISION ON REQUEST FOR
Patent Number	: 7600002	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,780	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **997** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PVF -- ORACLE INTERNATIONAL CORPORATION
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 05/18/2010

Applicant : Greg Pavlik
Patent Number : 7600002
Issue Date : 10/06/2009
Application No : 11/051,780
Filed : 02/04/2005

: 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 **1032** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

COPY MAILED

JUL 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Daniel B. Laubacher, et. al.	:	
Application No. 11/051,786	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. CL2467 US NA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 23, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed July 13, 2006. A Notice of Abandonment was mailed on February 7, 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 to the claims; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of an amendment to the specification, one (1) sheet of replacement drawing containing Figure 1, and an information disclosure statement (IDS), all filed on April 23, 2007.

This application file is being referred to Technology Center Art Unit 2859, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MAILED

MAR 2 5 2005

Director's Office
Group 3700

William C. Roden
51582 Hwy 112
Port Angeles, WA 98363

In re application of William C. Roden	: :	**DECISION ON PETITION** **TO MAKE SPECIAL**
	:	**UNDER 37 CFR. 1.102(c)**
Serial Number: 11/051851 Filed: February 4, 2005	: :	

For: **AEROSOL PRODUCT DISPENSING SYSTEM**

This is a decision on the petition filed on March 7, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 3/24/05

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JUN - 6 2005

THOMAS G. WATKINS III
5330 E. Palomino Road
Phoenix, AZ 85018

In re application of Thomas G. Watkins III et al Application No. 11/051,877 Filed: February 05, 2005 For: DUAL OPERATING MODE ELECTRONIC DISABLING DEVICE FOR GENERATING A TIME-SEQUENCED, SHAPED VOLTAGE OUTPUT WAVEFORM	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 17, 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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirements (B) and (C) above. Regarding item (B), the petition fails to include an election without traverse, or a statement that applicant is willing to elect without traverse should a restriction or election be required. Regarding item (C), the petition does not include a statement that a pre-examination search was made, listing the field of search

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner 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.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/pav: 06/02/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

SEP 2 2 2005

TECHNOLOGY CENTER 3600

THOMAS G. WATKINS III
5330 E. Palomino Road
Phoenix, AZ 85018

In re application of Thomas G. Watkins III et al. Application No. 11/051,877 Filed: February 05, 2005 For: DUAL OPERATING MODE ELECTRONIC DISABLING DEVICE FOR GENERATING A TIME-SEQUENCED, SHAPED VOLTAGE OUTPUT WAVEFORM	: : : :	**DECISION ON RENEWED PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on June 29, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The original petition filed on Marc 17, 2005 was dismissed on June 06,k 2005 for failing to satisfy requirements (B) and (C) above. The renewed petition satisfies the above deficiencies.

Since all of the requirements for special status under MPEP § 708.02 VIII have now been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/pav: 09/12/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of :
Joseph M. Cofield et al. :
Application No. 11/051,881 : DECISION ON PETITION
Filed: February 4, 2005 :
Attorney Docket No: **62686(52185)** :

This is a decision on the petition, filed April 14, 2008 , which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **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. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. While the petition seeks revival and a request to rescind the nonpublication request filed February 4, 2005, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
ATTN: Office of Petitions

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
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P.O. BOX 55874
BOSTON MA 02205

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AUG 2 8 2008

In re Application of	:
Joseph M. Cofield et al.	:
Application No. 11/051,881	: DECISION ON PETITION
Filed: February 4, 2005	:
Attorney Docket No: **62686(52185)**	:

This is a decision on the renewed petition, filed July 21, 2008, 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 present nonprovisional application is the subject of a foreign or international application filed on February 1, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

(1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition has been found to be in compliance with 37 CFR 1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within

45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(I) has been rescinded. The projected publication date is December 4, 2008 and a copy of the communication regarding rescission is included herein.

The petition fee in the amount of $770.00 was paid April 14, 2008 and has been applied to the finance records for this application.

This matter is being referred to Technology Center 1794 for further 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
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request And/or Notice of Foreign Filing

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
11/051,881	02/04/2005	Joseph M. Coffield	62686(52185)

CONFIRMATION NO. 5019

21874
EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

NONPUBLICATION RESCISSION LETTER

OC000000031733313

Date Mailed: 08/25/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/04/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/pffaison ball/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

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JUL 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Yueting Yen, et al.	:	
Application No. 11/051,890	:	DECISION ON PETITION
Filed: February 4, 2005	:	TO WITHDRAW
Attorney Docket No. 44418909-0022	:	FROM RECORD
	:	

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 31, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Edward J. Radlo on behalf of all attorneys of record who are associated with customer No. 26263.

All attorneys/agents associated with the Customer Number 26263 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: YUETING YEN
213 PRAIRIE DOG LANE
FREMONT, CA 94539

cc: PERRY WOODWARD
TERRA LAW, LLP
177 PARK AVENUE
THIRD FLOOR
SAN JOSE, CA 95113

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
11/051,890	02/04/2005	Yueting Yen	44418909-0022

CONFIRMATION NO. 5193

POWER OF ATTORNEY NOTICE

OC000000030768405

26263
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

Date Mailed: 07/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2007.

- 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 Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Yasuhiro Matsui	: DECISION ON REQUEST FOR
Patent Number	: 7564889	: RECALCULATION of PATENT
Issue Date	: 07/21/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/051,893	: OF WYETH
Filed	: 02/04/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Director's Office
Group 3700

Andrew P. Lahser
3113 North 3rd Street
Phonenix, AZ 85012

In re Application of
David Simon
Serial No. : 11/051902
Filed : February 04, 2005
For : **AIR MANAGEMENT SYSTEM**

: DECISION ON PETITION
: TO MAKE SPECIAL
: (INFRINGEMENT)
:

This is a decision on the petition under C.F.R. § 1.102(d) filed June 06, 2005, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market; (B) that a rigid comparison of the alleged infringing device or product with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed June 06, 2005, includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
Phone: (571) 272-3750
rt/ 8/29/05

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 26,2007

TO SPE OF : ART UNIT 2855

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/051,904 Patent No.: 7228723 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response to the employee (named below) via scanning into application images using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved In Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Formatted: Indent: Left: 0"

Comments: _____

Deleted: _____

SPE EDWARD LEFKOWITZ Art Unit 2855
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of	:	
Hinman, et al.	:	
Application No.: 11/051,909	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. 7291.US.01	:	

This is in response to the petition under 37 CFR 1.137(b) filed October 10, 2006.

The petition under 37 CFR 1.137(b) is **granted**.

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on April 22, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and $130.00 surcharge for the late filing of the same and replacement claims. On June 29, 2005, petitioner filed a declaration and paid the surcharge. On July 13, 2005, a Notice of Incomplete Reply was mailed indicating that replacement claims were not received and the period for response remained as set forth in the notice of April 22, 2005. No further responses were received within the allowable period and the application became abandoned on June 23, 2005.

The replacement claims filed October 10, 2006, are noted.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

Mail Date: 06/18/2010

Applicant	: Mira M. Hinman	: DECISION ON REQUEST FOR
Patent Number	: 7632946	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/051,909	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **706** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WARRENVILLE, IL 60555

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OFFICE OF PETITIONS

In re Application of	:	
Stephen P. Heath	:	
Application No. 11/051,930	:	ON PETITION
Filed: February 4, 2005	:	
Attorney Docket No. D5629	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 15, 2005. On June 4, 2007, the present petition was filed. 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).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of $790 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3748 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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MAR 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Bruland et al.	:	DECISION ON
Application No. 11/051,958	:	PETITION
Filed: February 4, 2005	:	
Atty Docket No. 50001/112:8	:	

This is in response to the "POST ALLOWANCE PETITION" filed February 1, 2008, pursuant to 37 C.F.R. § 1.182, or alternatively under 37 C.F.R. § 1.183, requesting that the Office consider an information disclosure statement (IDS) filed after the payment of the Issue Fee absent the filing of a petition to withdraw from issue and a request for continued examination (RCE).

This petition is properly treated pursuant to 37 CFR 1.183, as discussed infra, this petition requests waiver of the rules and does not involve a question not specifically provided for[1]. The

[1] § 1.182 Questions not specifically provided for.
All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(f).

petition fee of $400 has been charged to Deposit Account No. 19-4455, as authorized.

BACKGROUND

The above-identified application was filed on February 4, 2005. On September 21, 2007, the Office issued a NOTICE OF ALLOWANCE AND FEE(S) DUE. On December 19, 2007, applicants timely paid the issue fee. Applicants now request consideration of an information disclosure statement (IDS) filed February 1, 2008, citing an Office action mailed January 11, 2008 in application No. 11/107,890.

RELEVANT STATUTES AND REGULATIONS

37 CFR § 1.114(a) provides that:

If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

37 CFR § 1.114(c) provides that:

A submission as used in this section includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. If reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of § 1.111.

37 CFR 1.183 states that:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the 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).

OPINION

Petitioner requests that the Office consider an IDS filed after the payment of the Issue Fee absent the filing of a petition to withdraw from issue and a RCE as required by the rules. Petitioner requests this relief on the basis that the procedures set forth in 37 C.F.R. § 1.313(c)(2) for citing references after payment of the issue fee by withdrawing the application from issue in favor of a RCE are not satisfactory in this instance. Petitioner points to the fact that this application is one of eight commonly-assigned applications (the "ESI applications") and that claims from some of these applications were copied to applications assigned to the GSI Group Corp., (the "GSI applications). Further, all of these applications are not under examination by the same patent examiner.

Therefore, petitioner argues that in addition to the usual expense and delay associated with those procedures, following those procedures would subject this application to recurrence of the same problem over and over again, delaying allowance of this application every time a new Office action or response is filed in The ESI Applications or The GSI Applications. Moreover, petitioner opines events in those applications giving reason to make a new citation in this application are and would continue to be largely out of the present Applicants' control. Further, petitioner contends that unless and until the Office coordinates its examinations of The ESI Applications and The GSI Applications, this application (as well as the rest of The ESI Applications) could be stuck pending for additional months, or, more likely, years while prosecution of any of one of the other application continues.

Petitioner's arguments have been considered, but not found persuasive. It is concluded that relief under § 1.183 is not warranted in this instance.

As acknowledged by petitioner, Office rules and procedure provide that:

> After the issue fee has been paid on an application, it is impractical for the Office to attempt to consider newly submitted information. Information disclosure statements filed after payment of the issue fee in an application will not be considered but will merely be placed in the application file. See MPEP § 609.05(b). The application may be withdrawn from issue at this point, pursuant to 37 CFR 1.313(c)(2) or 1.313(c)(3) so that the information can be considered in the application upon the filing of a RCE under 37 CFR 1.114 or in a continuing application filed under 37 CFR 1.53(b) (or 37 CFR 1.53(d) if then application is a design application).

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. See 37 CFR 1.183. However, the Office will not normally consider an extraordinary remedy, where, as here, the rules of practice already provide an avenue for obtaining the relief sought. See Cantello v. Rasmussen, 220 USPQ 664, 664 (Comm'r Pat. 1982). It is well-established that the extraordinary remedy provisions of 37 CFR 1.183 should not be invoked to supplement viable options found in the statutes and regulations.

Petitioner has not established that this is an extraordinary situation where justice requires waiver of the rules. The filing of a petition to withdraw from issue and RCE with IDS as submission is a viable option. Petitioner's contentions with respect to the delay associated with events in the other applications is largely speculative. In other words, no such events have occurred and petitioner has not provided evidence that such events will occur. It might be a different situation if this petition was filed after repeated events requiring withdrawal of this application from issue for consideration of

an IDS had occurred, due to the circumstances alleged by petitioner.

More importantly, rule 1.313(c)(2) does provide an adequate avenue for obtaining the relief sought under current circumstances. By means of utilizing 1.313(c)(2), petitioner may get consideration of the IDS. With respect to consideration of the citation, this is the same relief that would be afforded if this petition was granted. Although the Office cannot ensure that any petition under 37 CFR 1.313(c) will be acted upon prior to the date of patent grant, procedures are in place to facilitate prompt action on any petition to withdraw from issue. (Under normal Office procedure, a properly filed petition to withdraw from issue filed during business hours is acted on on the date of receipt of the petition)[2]. Thereafter, the application will be forwarded to the examiner for consideration of the RCE and submission. Again, the submission will be considered in the same manner as it would had this petition been granted. It is unknown the extent that there would be delay until the issuance of a new Notice of Allowance. Nonetheless, petitioner has not set forth sufficient basis that justice requires that in this instance, applicants should not have to follow established rules and procedure and suffer the same delay as any other applicant who wishes to withdraw an application from issue after payment of the issue fee upon becoming aware of a new citation.

CONCLUSION

For the reasons noted above, the petition to suspend rules under 37 CFR 1.183 is **DISMISSED**.

---

[2]Petitions to Withdraw from Issue - Petitions to withdraw from issue may be hand-carried to the Office of Petitions on the 7th floor of the Madison West Building, 600 Dulany Street, Alexandria, VA 22314. At the guard station in Madison West, the security guard should call the Office of Petitions at (571) 272-3282 for delivery assistance. Hand-carried papers will be accepted between the hours of 8:30 am to 3:45 pm.

Petitions to withdraw from issue: (571) 273-0025 facsimile number

Applicants may filing a petition under 37 CFR 1.313(c) may call the Office of Petitions (at (571) 272-3282) to verify receipt and processing of the petition under 37 CFR 1.313(c)(or may verify same in PAIR).

Any request for reconsideration must be filed within two (2) months of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. See 37 CFR 1.181(f).

Any petition to withdraw from issue, if filed, should be promptly filed consistent with the means set forth in footnote 2 herein, or as otherwise provided for in the Manual of Patent Examination Procedure (MPEP).

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Petitions Attorney
Office of Petitions

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In re Application of	:
BRULAND, et al.	:
Application No. 11/051,958	: DECISION GRANTING PETITION
Filed: February 4, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **50001/112:8**	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **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 19, 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) 272-7253.

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.

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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James W. Huffman
Huffman Law Group, P.C.
1832 N. Cascade Ave.
Colorado Springs, CO 80907-7449

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MAR 14 2006

TECHNOLOGY CENTER 2100

In re Application of:
Darren M JONES et al
Appl. No.: 11/051,978
Filed: February 4, 2005
For: INTRUCTION/SKID BUFFERS IN A MULTITHREADING MICROPROCESSOR

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed July 14, 2005, to expunge information unintentionally submitted in an Information Disclosure Statement filed June 08, 2005.

The petition is **GRANTED**.

Petitioner requests that the document "MIPS32® 34K™ Processor Core Family Engineering Specification, Document Number: MD00413, Revision 0.20, MIPS Technologies, Inc., February 16, 2005", filed on June 08, 2005 be expunged from the record. Petitioner states that the document was unintentionally submitted and all existing copies should be destroyed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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1832 N. Cascade Ave.
Colorado Springs, CO 80907-7449

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MAR 14 2006

TECHNOLOGY CENTER 2100

In re Application of:
Darren M JONES et al
Appl. No.: 11/051,979
Filed: February 4, 2005
For: MULTITHREADING MICROPROCESSOR WITH OPTIMIZED THREAD SCHEDULER FOR INCREASING PIPELINE UTILIZATION EFFICIENCY

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed July 14, 2005, to expunge information unintentionally submitted in an Information Disclosure Statement filed June 08, 2005.

The petition is **GRANTED**.

Petitioner requests that the document "MIPS32® 34K™ Processor Core Family Engineering Specification, Document Number: MD00413, Revision 0.20, MIPS Technologies, Inc., February 16, 2005", filed on June 08, 2005 be expunged from the record. Petitioner states that the document was unintentionally submitted and all existing copies should be destroyed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Colorado Springs, CO 80907-7449

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MAR 1 4 2006

TECHNOLOGY CENTER 2100

In re Application of:
Darren M JONES et al
Appl. No.: 11/051,980
Filed: February 4, 2005
For: LEAKY-BUCKET THREAD SCHEDULER IN A MULTI THREADING MICROPROCESSOR

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed July 14, 2005, to expunge information unintentionally submitted in an Information Disclosure Statement filed June 08, 2005.

The petition is **GRANTED**.

Petitioner requests that the document "MIPS32® 34K™ Processor Core Family Engineering Specification, Document Number: MD00413, Revision 0.20, MIPS Technologies, Inc., February 16, 2005", filed on June 08, 2005 be expunged from the record. Petitioner states that the document was unintentionally submitted and all existing copies should be destroyed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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New Brunswick, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Douglas Raymond et al. :
Application No. 11/051,983 : ON PETITION
Filed: February 3, 2005 :
Attorney Docket No. DEP5261USNP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 23, 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 November 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three month extension of time was obtained. Accordingly, the date of abandonment of this application is May 28, 2008. A Notice of Abandonment was mailed on June 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3733 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: David A. Lane, Jr.
325 Paramount Drive
Raynham, MA 02767

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MAR 1 4 2006

TECHNOLOGY CENTER 2100

In re Application of:
Darren M JONES et al
Appl. No.: 11/051,997
Filed: February 4, 2005
For: BIFURCATED THREAD SCHEDULER IN A MULTITHREADING MICROPROCESSOR

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed July 14, 2005, to expunge information unintentionally submitted in an Information Disclosure Statement filed June 08, 2005.

The petition is **GRANTED**.

Petitioner requests that the document "MIPS32® 34K™ Processor Core Family Engineering Specification, Document Number: MD00413, Revision 0.20, MIPS Technologies, Inc., February 16, 2005", filed on June 08, 2005 be expunged from the record. Petitioner states that the document was unintentionally submitted and all existing copies should be destroyed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

COPY MAILED

JUN 17 2009

OFFICE OF PETITIONS

In re Application of :
Darren M. JONES, et al. :
Application No. 11/051,997 :
Filed: February 4, 2005 :
Attorney Docket No. **1778.3400000(0199.00US)** :

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 15, 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 April 28, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

A review of the file record discloses that petitioner submitted payment for the RCE submission and the petition to withdraw fee twice. The duplicate payment of these fee(s) has been credited to petitioner's deposit account number 190036.

This application is being referred to Technology Center AU 2111 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.*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Jones *et al.*
Appl. No.: 11/051,997
Filed: February 4, 2005
For: **Interfacing External Thread Prioritizing Policy Enforcing Logic with Customer Modifiable Register to Processor Internal Scheduler**

Confirmation No.: 9858
Art Unit: 2111
Examiner: Kim, Kenneth S.
Atty. Docket: 1778.3400000 (0199.00US)

Petition to Withdraw from Issue under 37 C.F.R. § 1.313(c)(2) For Consideration of a Request for Continued Examination

FAX RECEIVED
JUN 15 2009
OFFICE OF PETITIONS

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby petitioned under 37 C.F.R. § 1.313(c)(2) that the above-captioned application be withdrawn from issue for consideration of the accompanying request for continued examination in compliance with 37 C.F.R. § 1.114. This petition was necessitated because the Applicants wish to submit art for consideration by the Examiner.

It is believed that no extensions of time are necessary, other than those that are otherwise provided for herewith. However, if extensions of time under 37 C.F.R. § 1.136 other than those provided herewith are required to prevent abandonment of the above-captioned application, then such extensions of time are hereby petitioned.

Adjustment date: 06/18/2009 CKHLOK
06/16/2009 KAEBRAHT 00000026 190036 11051997
01 FC:1801 810.00 CR
02 FC:1464 130.00 CR

This petition is accompanied by the required fee (37 C.F.R. § 1.17(h)). The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

David C. Isaacson
Attorney for Applicants
Registration No. 38,500

Date: June 15, 2009

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

989860_1.DOC

'555'

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 06/17/09

2 Serial/Patent # 11/051,997

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
X	Petition 1464	PETWDISS	06/15/09	$ 130.00
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other RCE 1801	RCEX	06/15/09	$ 810.00

7 TOTAL AMOUNT OF REFUND $ 940.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 9 -- 0 0 3 6

10 REASON:

	Overpayment
X	Duplicate Payment
	No Fee Due (Explanation):

Petitioner paid fee twice once by credit card and then by deposit account.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: /Monica A. Graves/ PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhOK DATE: 6/17/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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

James W. Huffman
Huffman Law Group, P.C.
1832 N. Cascade Ave.
Colorado Springs, CO 80907-7449

MAILED

MAR 14 2006

TECHNOLOGY CENTER 2100

In re Application of:
Darren M JONES et al
Appl. No.: 11/051,998
Filed: February 4, 2005
For: MULTITHREADING MICROPROCESSOR INCLUDING THREAD SCHEDULER BASED ON INSTRUCTION STALL LIKELIHOOD PREDICTION

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed July 14, 2005, to expunge information unintentionally submitted in an Information Disclosure Statement filed June 08, 2005.

The petition is **GRANTED**.

Petitioner requests that the document "MIPS32® 34K™ Processor Core Family Engineering Specification, Document Number: MD00413, Revision 0.20, MIPS Technologies, Inc., February 16, 2005", filed on June 08, 2005 be expunged from the record. Petitioner states that the document was unintentionally submitted and all existing copies should be destroyed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

COPY MAILED

MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
KIM, Daniel H.	:	
Application No. 11/052,002	:	DECISION ON PETITION
Filed: February 04, 2005	:	TO WITHDRAW
Attorney Docket No. **STAN-388CIP2**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Karl Bozicevic, on behalf of all attorneys of record who are associated with customer No. 24353. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **DANIEL H. KIM**
156 PACCHETTI WAY
MOUNTAIN VIEW, CA 94040

cc: **MAYER & WILLIAMS PC**
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/052,002	02/04/2005	Daniel H. Kim	

CONFIRMATION NO. 9796

OC000000023651921

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 05/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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CUSTOMER# 81910
VERTIFLEX, INC.
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

MAILED

MAY 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel H. KIM	:	
Application No. 11/052,002	:	DECISION ON PETITION
Filed: February 04, 2005	:	TO WITHDRAW
Attorney Docket No. **65837-8002US2**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Customer 81910 has been revoked by the assignee of the patent application on January 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PERKINS COIE LLP**
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

Paper No. 30

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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R. Joseph Trojan
Trojan Law Offices
9250 Wilshire Blvd.
Suite 325
Beverly Hills, CA 90212

(For Patent Owner)

Mark H. Plager
Law Offices of Mark H. Plager, P.C.
2134 Main Street
Suite 130
Huntington Beach, CA 92648

(For Requester)

MAILED
SEP 22 2005
REEXAM UNIT

In re Brady
Ex Parte Reexamination Proceeding
Control Number 90/004,672
Filed: June 20, 1997
For: U.S. Patent No. 5,127,760

In re reissue application of
Brady
Application Number 11/052,018
Filed: January 5, 2005
For: U.S. Patent No. 5,127,760

DECISION
SUA SPONTE
MERGING
REISSUE
AND
REEXAMINATION
PROCEEDINGS

The above-mentioned reissue and reexamination proceedings are before the Office of Patent Legal Administration for decision as to whether or not the proceedings should be merged.

For the reasons discussed below, the above-identified reissue application and reexamination proceedings are ***sua sponte* merged** into a single consolidated proceeding.

REVIEW OF FACTS

1. U.S. Patent No. 5,127,760 issued to Brady on July 7, 1992.

2. A request for *ex parte* reexamination of the '760 patent was filed by third party requester on June 20, 1997, and was assigned reexamination control no. 90/004,672.

3. On August 6, 1997, reexamination was ordered in the '4672 proceeding.

4. A patent owner's statement was filed in the '4672 proceeding on October 6, 1997.

5. On November 12, 1997, a requester's reply was filed in the '4672 proceeding.

6. A non-final Office action was mailed in the '4672 proceeding on December 10, 1997.

7. On February 9, 1998, a response to the non-final Office action was filed by patent owner in the '4672 proceeding, and was accompanied by a petition to stay the instant reexamination proceeding.

8. Requester filed a notice of concurrent proceedings under 37 C.F.R. 1.565(a) in the '4672 proceeding on May 1, 1998, advising the Office of the status of concurrent litigation.

9. Patent owner filed a notice of concurrent proceedings under 37 C.F.R. 1.565(a) in the '4672 proceeding on May 6, 1998, advising the Office of the status of concurrent litigation.

10. Patent owner filed a notice of concurrent proceedings under 37 C.F.R. 1.565(a) in the '4672 proceeding on January 31, 2001, advising the Office of the status of concurrent litigation.

11. On January 3, 2005, patent owner filed a notice of court action in the '4672 proceeding advising the Office of a final decision issued by the U.S. District Court for the Central District of California on October 22, 2003, and also advising the Office that the decision was affirmed by the CAFC on December 1, 2004, as to the holding that U.S. Patent No. 5,127,760 has priority over U.S. Patent No. 5,127,203.

12. On February 5, 2005, patent owner filed a reissue application based on U.S. Patent No. 5,127,760, which application has been assigned Application No. 11/052,018. A preliminary amendment was included, adding new claim 11.

13. On June 20, 2005, patent owner filed a notice of court action in the '4672 proceeding advising the Office that with regard to all appeals of the decision issued by the U.S.

District Court for the Central District of California, the decision has been rendered final.

14. A decision dismissing the petition to stay the '4672 proceeding was mailed on September 19, 2005.

DISCUSSION REGARDING MERGER OF PROCEEDINGS

Under 37 C.F.R. § 1.565(d):

> (d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings....

As evidenced by the above review of facts, the reissue application and the reexamination proceeding are currently pending. Since the Order has been mailed pursuant to § 1.525 in the '4672 reexamination proceeding, a decision under § 1.565(d) is timely.

The general policy of the Office is that examination of reissue and reexamination proceedings will not be conducted separately and at the same time for a single patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the multiple proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of all of the proceedings. In making a decision as to whether or not to merge the multiple proceedings, consideration will be given to the status of each proceeding. See MPEP 2285.

A review of the prosecution history of the '4672 reexamination file shows that no amendments have been made.

A review of the reissue (Application No. 11/052,018) prosecution history shows that the reissue application was published in the *Official Gazette* on October 5, 2005. In the reissue application, patent owner has filed a preliminary amendment adding new claim 11. Therefore, the claims are **not** identical in both proceedings.

In order to provide efficient and prompt handling of both proceedings, and to prevent inconsistent and possibly conflicting amendments from being introduced on behalf of the patent owner, it is appropriate that the reissue and the reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceeding will be conducted in accordance with the decision set forth below.

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-identified reissue and reexamination proceedings are merged. A joint examination will be conducted in accordance with the guidelines and requirements which follow.

II. Requirement for Same Amendments in Both Proceedings

The patent owner is required to maintain identical amendments in the reissue application and the reexamination file for purposes of the merged proceeding. The maintenance of identical amendments in both files is required as long as the proceedings remain merged. See 37 C.F.R. § 1.565(d). As noted above with regard to the amendments submitted, the claims are NOT the same in both files. **An appropriate housekeeping amendment is required within ONE (1) MONTH of this decision placing the same amendments in both cases**, specifically, Application No. 11/052,018, and Control No. 90/004,672. The response to the requirement must be limited to placing the same amendments in both cases, and patent owner must **not** address the issues of either of the proceedings in the housekeeping amendment. The housekeeping amendment should be submitted as a single paper, including the identifying data for both files (*i.e*, the reissue Application No. and the reexamination proceeding Control No.) and a signature, and should be filed in duplicate for entry into each of the reissue and reexamination files.

It should be noted that the housekeeping amendment for the merged proceeding should be provided in the proper format for reissue applications. **Amendments in a reissue application must be in compliance with 37 C.F.R. § 1.173,** therefore all amended claims should contain bracketing and underlining with regard to the original patent text pursuant to 37 C.F.R. § 1.173(b)(2), (d) and (g) and all new claims must be completely underlined pursuant to 37 C.F.R. § 1.173(b)(2) and (d)(2). Please be aware that a "clean copy" of the amendment is **not** required by this rule. **Note that amendment practice pursuant to 37 C.F.R. § 1.121 does not apply to reissue applications, as specifically indicated in 37 C.F.R. § 1.121(a) and (i), and therefore "Revised Amendment Practice" does not apply to reissue applications.** Therefore, the required housekeeping amendment must be in compliance with 37 C.F.R. § 1.173, *e.g.*, all amended claims should contain bracketing and underlining with regard to the original patent text pursuant to 37 C.F.R. § 1.173(b)(2), (d) and (g).

III. Conduct of the Merged Reissue and Reexamination Proceedings

Because the statutory provisions for reissue application examination include, *inter alia*, provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue application,

examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding.

Each Office action issued by the examiner will take the form of a *single action* which jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data *for both of the cases*, *i.e*, the reissue application and the reexamination proceeding. Each action will be entered into both files (which will be maintained as separate files).

Any response by the applicant/patent owner must consist of a single response, with **two copies being filed** for entry in both files, with each of the two copies bearing a signature, and containing identifying data for both of the cases (*i.e,* the reissue Application No. and the reexamination proceeding Control No.).

If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be terminated by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 C.F.R. § 1.570. See MPEP 2285.

If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the merged proceeding will be terminated as follows. The reissue application will be held abandoned, and the merger will be dissolved. With respect to the reexamination proceeding, the Commissioner will proceed to issue a reexamination certificate under § 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings.

If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 C.F.R. § 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Any grounds of rejection which are not applicable under reexamination would be withdrawn (*e.g.*, based on public use or sale), and any new grounds of rejection which are applicable under reexamination (*e.g.,* improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 C.F.R. § 1.552(c).

If applicant/patent owner files a Request for Continued Examination (RCE) of the reissue application under 37 C.F.R. § 1.114, the reissue application is not considered to be expressly abandoned; rather the finality of the Office action is withdrawn, and the merged proceeding will continue. This is so, because an RCE is not an abandonment of any application, whether it be a reissue application or a non-reissue application.

CONCLUSION

1. The above-identified reissue application and reexamination proceedings are ***sua sponte* merged** into a single consolidated proceeding.

2. The reissue application file and the reexamination file are being forwarded to the Group Director of Technology Center 3600. All further examination should be conducted in accordance with this decision.

3. Pursuant to Part II. of this decision, a housekeeping amendment is required **within ONE (1) MONTH of this decision,** placing the same amendments in both cases of the present merged proceeding, which amendment must be in compliance with 37 C.F.R. § 1.173.

4. The examiner should issue an Office action for the present merged proceeding of the reissue application and reexamination proceeding **after** the earlier of the following events have occurred:

   (a) the submission of the housekeeping amendment to place the same amendments in both cases; or

   (b) the expiration of the ONE (1) month period from the mailing of this decision for filing the amendment.

5. It should be noted that failure to submit an appropriate "housekeeping amendment" **within one month of this decision** placing the same amendments in both files will result in the Office's rejection of any claim that does not contain identical text in both merged proceedings under 35 U.S.C. § 112, second paragraph, as being indefinite as to the content of the claim, and therefore failing to particularly point out the invention.

6. All further examination should be conducted in accordance with Parts II. and III. of this decision.

7. **All correspondence relating to an *ex parte* reexamination proceeding** should be directed:

   by Mail to: Mail Stop *Ex Parte* Reexam
   Central Reexamination Unit
   Commissioner for Patents
   P.O. Box 1450
   Alexandria, VA 22313-1450

by FAX to: (571) 273-9900
Central Reexamination Unit

by Hand Delivery to: Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

8. Telephone inquiries with regard to this decision should be directed to the undersigned at (571) 272-7722.

Lynn M. Kryza
Senior Special Projects Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

September 20, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/004,672	06/20/1997	5127760	T-3006	7919

7590 09/28/2005

R JOSEPH TROJAN
TROJAN LAW OFFICES
REXFORD PLAZA
9250 WILSHIRE BLVD, SUITE 325
BEVERLY HILLS, CA 90212

EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

R. Joseph Trojan
Trojan Law Offices
9250 Wilshire Blvd.
Suite 325
Beverly Hills, CA 90212

(For Patent Owner)

Mark H. Plager
Law Offices of Mark H. Plager, P.C.
2134 Main Street
Suite 130
Huntington Beach, CA 92648

(For Requester)

In re Brady
Ex Parte Reexamination Proceeding
Control Number 90/004,672
Filed: June 20, 1997
For: U.S. Patent No. 5,127,760

In re reissue application of
Brady
Application Number 11/052,018
Filed: January 5, 2005
For: U.S. Patent No. 5,127,760

: **DECISION**
: **VACATING**
: **MERGER OF**
: **REISSUE AND**
: **REEXAMINATION**
: **PROCEEDINGS**
:
: **AND**
:
: **DECISION**
: **SUSPENDING**
: **REISSUE**

The above-mentioned reissue and reexamination proceedings were merged by the Office of Patent Legal Administration in a decision mailed on September 22, 2005.

For the reasons discussed below, the decision merging proceedings of September 22, 2005, is hereby **vacated.**

The prosecution of the above-mentioned reissue application is hereby **suspended,** pending the conclusion of the 90/004,672 reexamination proceeding by the issuance of the reexamination certificate.

REVIEW OF FACTS

1. U.S. Patent No. 5,127,760 issued to Brady on July 7, 1992.

2. A request for *ex parte* reexamination of the '760 patent was filed by third party requester on June 20, 1997, and was assigned reexamination control no. 90/004,672.

3. On August 6, 1997, reexamination was ordered in the '4672 proceeding.

4. A patent owner's statement was filed in the '4672 proceeding on October 6, 1997.

5. On November 12, 1997, a requester's reply was filed in the '4672 proceeding.

6. A non-final Office action was mailed in the '4672 proceeding on December 10, 1997.

7. On February 9, 1998, a response to the non-final Office action was filed by patent owner in the '4672 proceeding, and was accompanied by a petition to stay the instant reexamination proceeding.

8. Requester filed a notice of concurrent proceedings under 37 C.F.R. 1.565(a) in the '4672 proceeding on May 1, 1998, advising the Office of the status of concurrent litigation.

9. Patent owner filed a notice of concurrent proceedings under 37 C.F.R. 1.565(a) in the '4672 proceeding on May 6, 1998, advising the Office of the status of concurrent litigation.

10. Patent owner filed a notice of concurrent proceedings under 37 C.F.R. 1.565(a) in the '4672 proceeding on January 31, 2001, advising the Office of the status of concurrent litigation.

11. On January 3, 2005, patent owner filed a notice of court action in the '4672 proceeding advising the Office of a final decision issued by the U.S. District Court for the Central District of California on October 22, 2003, and also advising the Office that the decision was affirmed by the CAFC on December 1, 2004, as to the holding that U.S. Patent No. 5,127,760 has priority over U.S. Patent No. 5,127,203.

12. On February 5, 2005, patent owner filed a reissue application based on U.S. Patent No. 5,127,760, which application has been assigned Application No. 11/052,018. A preliminary amendment was included, adding new claim 11.

13. The reissue application was published in the *Official Gazette* on April 12, 2005.

14. On June 20, 2005, patent owner filed a notice of court action in the '4672 proceeding advising the Office that with regard to all appeals of the decision issued by the U.S. District Court for the Central District of California, the decision has been rendered final.

15. A decision dismissing the petition to stay the '4672 proceeding was mailed on September 19, 2005.

16. On September 22, 2005, a decision *sua sponte* merging reissue and reexamination and proceedings was mailed.

DECISION

Under 37 C.F.R. § 1.565(d):

> (d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings....

35 USC 305 states (in part):

> "All reexamination proceedings under this section, including any on appeal to the Board of Patent Appeals and Interferences, will be conducted with special dispatch within the Office."

The general policy of the Office is that examination of reissue and reexamination proceedings will not be conducted separately, and at the same time, for a single patent. The reason for this Office policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the multiple proceedings on behalf of the patent owner. The decision as to whether to merge the proceedings or suspend a proceeding will be made on a case-by-case basis based upon the status of the various proceedings. Due consideration will be given to the finality of the reexamination requested.

In the present reexamination proceeding, prosecution has been conducted, and claims 1-10 stand rejected over U.S. Patent No. 5,127,203. In a notice of court action filed on June 20, 2005, patent owner advised the Office of a final decision issued by the U.S. District Court for the

Central District of California[1], holding that U.S. Patent No. 5,127,760 has priority over U.S. Patent No. 5,127,203, and that the decision was affirmed by the Court of Appeals for the Federal Circuit (CAFC)[2] on December 1, 2004. A review of *Slip Track Systems, Inc. v. Metal Lite Inc.*, unpublished docket 04-1070 (Fed. Cir. 2004) confirms that the CAFC affirmed the final decision issued by the U.S. District Court for the Central District of California, as to the holding that U.S. Patent No. 5,127,760 has priority over U.S. Patent No. 5,127,203, and the time periods for any further appeal have expired. Accordingly, since the only reference applied against the claims of the '4672 proceeding is no longer available as prior art in view of the final court decision, it is likely that the reexamination proceeding may be terminated in due course, provided that no new prior art is applied against the claims.

In the reissue application, the patent owner filed a preliminary amendment that adds claim 11. The status of the reissue application is that no Office action has yet been mailed.

While in other situations it may be beneficial to consolidate reexamination and reissue proceedings within the Office, in this instance, such consolidation would necessitate the prolonging of prosecution in the reexamination proceeding at a point where the reexamination proceeding will most likely be terminated. Any such prolonging of prosecution in the reexamination proceeding would be contrary to the **special dispatch** requirement set by the statute. Therefore, rather than merging the reexamination and reissue proceedings in this instance, it is instead appropriate that the reissue application be **suspended** pursuant to 37 C.F.R. § 1.103(e) in favor of the reexamination proceeding. The suspension of the reissue application will prevent inconsistent and possibly conflicting amendments from being introduced on behalf of the patent owner into the reissue application. The suspension of the reissue application will also permit the reexamination proceeding to continue to move forward, and this will provide the most efficient and prompt handling of the reexamination proceeding.

Accordingly, the merger of the above-mentioned reexamination and reissue proceedings is **vacated.** The reissue application is **suspended** pursuant to 37 C.F.R. § 1.103(e) in favor of the reexamination proceeding, for the reasons indicated above. The prosecution of the 11/052,018 reissue application is hereby **suspended,** pending the conclusion of the 90/004,672 reexamination proceeding by the issuance of the reexamination certificate.

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[1] *Slip Track Systems, Inc. v. Metal Lite Inc.*, Civil Action No. SACV 98-20 AHS (C.D. Cal. Oct. 22, 2003)("Final Judgement")

[2] *Slip Track Systems, Inc. v. Metal Lite Inc.*, unpublished docket 04-1070 (Fed. Cir. 2004)

CONCLUSION

1. The decision to merge mailed by the Office of Patent Legal Administration on September 22, 2005, is vacated.

2. The prosecution of reissue application number 11/052,018 is suspended pending the conclusion of the 90/004,672 reexamination proceeding by the issuance of the reexamination certificate.

3. A copy of this decision will be placed in both the 11/052,018 reissue file and the 90/004,672 reexamination file.

4. The reexamination file is being forwarded to the Central Reexamination Unit for processing, after which it will be forwarded via the Group Director of Technology Center 3600 to the examiner for the issuance of an Office action.

5. The reissue file is being forwarded via the Group Director of Technology Center 3600 to the Technology Center Special Program Examiner for storage pending the issuance of the reexamination certificate for the '4672 reexamination proceeding, after which an Office action will be issued for the reissue application.

6. The patent owner is advised to, at the time that a reexamination certificate is issued for the '4672 reexamination, call the issuance of the proceeding to the attention of the Office, and request a resumption of examination of the reissue application.

7. **All correspondence relating to an *ex parte* reexamination proceeding** should be directed:

by Mail to: Mail Stop *Ex Parte* Reexam
Central Reexamination Unit
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

by FAX to: (571) 273-9900
Central Reexamination Unit

by Hand Delivery to: Customer Service Window
Attn: Central Reexamination Unit
Randolph Building, Lobby Level
401 Dulany Street
Alexandria, VA 22314

8. Telephone inquiries with regard to this decision should be directed to Lynn M. Kryza, Senior Special Projects Advisor at (571) 272-7722, or Robert Clarke, Deputy Director at (571) 272-7735.

Robert A Clarke for Robert J. Spar

Robert J. Spar, Director
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

September 27, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of	:	
Todd A. Brady	:	
Patent No. RE39462	:	DECISION ON APPLICATION
Issued: 9 January, 2007	:	FOR
Application No. 11/052,018	:	PATENT TERM ADJUSTMENT
Filed: 5 February, 2005	:	
Reissue of	:	
Patent No. 5,127,760	:	
Issued: 7 July, 1992	:	
Application No. 07/557,755	:	
Filed: 26 July, 1990	:	

This is in response to the PETITION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)," filed 12 January, 2007. Applicants, in effect, request that the determination of patent term extension of zero (0) days in this application be corrected to a determination of patent term adjustment of one hundred thirty-eight (138) days.

At the outset, patentee did not pay the required $200 PTA fee, and as such, the Office will not look into the matter on the merits. No authorization to charge a deposit account could be found.

Furthermore, for the reasons stated below, assuming, *arguendo*, the fee had been paid, the petition must be dismissed.

On 29 June, 2006, the Office mailed the Determination of Patent Term Extension or Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that a reissue patent is for "the unexpired part of the term of the original patent." See 35 U.S.C. § 251. Accordingly, the above-identified reissue application is not eligible for Patent Term Extension or Adjustment under 35 U.S.C. 154(b).

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term

due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. The Final Rule published in the Federal Register specifically states that the provisions of 37 CFR §§ 1.701 - 1.705, which implement § 154(b) apply only to original (non-reissue) patents. In particular, 37 CFR 1.702(f) provides that the provisions of §§ 1.702 through 1.705 apply only to original (i.e., non-reissue) applications, except applications for a design patent, filed on or after May 29, 2000, and patents issued on such applications. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366, 56368 (September 18, 2000). The regulation as promulgated clearly states that reissue applications are not original applications, and are therefore ineligible for Patent Term Adjustment. See also Comment 5 to *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000) (reiterating that an "original application" is any application other than a reissue application).

Petitioners' artfully pled argument that the USPTO lacks the rulemaking authority to determine which types of applications are eligible for Patent Term Adjustment clearly overlooks the fact that 37 CFR 1.701-1.705 is a validly promulgated regulation. More to the point, petitioners' citation of *Texaco, Inc. v. Federal Power Comm.* 412 F.2d 740, 743 (3d Cir. 1969), indicates that petitioners improperly assumed that 37 CFR 1.701 - 1.705 was simply an agency determination. To the contrary, the Patent Term Adjustment provisions specified in 37 CFR 1.701 through 1.705 were promulgated pursuant to 5 U.S.C. § 553(b) and (c) and issued in a Final Rule on September 18, 2000.

Since the above-identified application is a reissue application, and as such, is clearly not an original application, this application is not eligible for the extension or adjustment under 35 U.S.C. 154. The Office has no authority to grant an extension or adjustment of the term due to administrative delays except as authorized by 35 U.S.C. § 154.

Patentee is given **THIRTY (30) DAYS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Telephone inquiries with regard 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

In re Application of	:	
Todd A. Brady	:	
Patent No. RE39462	:	FINAL AGENCY DECISION
Issued: 9 January, 2007	:	ON
Application No. 11/052,018	:	REQUEST FOR RECONSIDERATION
Filed: 5 February, 2005	:	OF
Reissue of	:	DECISION ON APPLICATION
Patent No. 5,127,760	:	FOR
Issued: 7 July, 1992	:	PATENT TERM ADJUSTMENT
Application No. 07/557,755	:	
Filed: 26 July, 1990	:	

This is a decision in response to the "REPLY TO THE DECISION ON THE PETITION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)," filed October 3, 2007, requesting reconsideration of the decision of September 4, 2007, and requesting that the subject patent be considered eligible for Patent Term Adjustment. Applicants again request that the determination of patent term adjustment of zero (0) days in this application be corrected to a determination of patent term adjustment of one hundred thirty-eight (138) days.

The request for reconsideration of the decision of September 4, 2007, is granted to the extent that the decision of September 4, 2007, has been reconsidered; however, the request for reconsideration is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) indicated in the decision of September 4, 2007. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 and for purposes of seeking judicial review. *See* MPEP 1002.02.

On June 26, 2006, the Office mailed the Determination of Patent Term Extension or Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that a reissue patent is for "the unexpired part of the term of the original patent." See 35 U.S.C. § 251. Accordingly, the above-identified reissue application is not eligible for Patent Term Extension or Adjustment under 35 U.S.C. 154(b).

Petitioner again argues that the subject patent is eligible for Patent Term Adjustment under 35 U.S.C. § 154(b).
In particular, petitioner argues that the patent statute does not preclude reissues; that legislative intent shows an intent to cover reissue applications, and that the agency has been arbitrary and capricious in barring reissue applications from Patent Term Adjustment.

35 U.S.C. 154(b) states, in pertinent part:

> (1) PATENT TERM GUARANTEES. —
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. — Subject to the limitations under paragraph (2), if the issue of an **original patent** is delayed due to the failure of the Patent and Trademark Office to —
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after —
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a

decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an **original patent** is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an **original patent** is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(emphasis added)

37 CFR 1.702 states:

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;

(3) Act on an application not later than four months after the date of a decision by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or 135 or a decision by a Federal court under 35 U.S.C. 141, 145, or 146 where at least one allowable claim remains in the application; or

(4) 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.

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C: 154(b) and this subpart, the term of an **original patent** shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or;

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

(c) Delays caused by interference proceedings. 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 interference proceedings under 35 U.S.C. 135(a).

(d) Delays caused by secrecy order. 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 application being placed under a secrecy order under 35 U.S.C. 181.

> (e) Delays caused by successful appellate review. 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 review by the Board of Patent Appeals and Interferences under 35 U.S.C. 134 or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued under a decision in the review reversing an adverse determination of patentability. If an application is remanded by a panel of the Board of Patent Appeals and Interferences and the remand is the last action by a panel of the Board of Patent Appeals and Interferences prior to the mailing of a notice of allowance under 35 U.S.C. 151 in the application, the remand shall be considered a decision by the Board of Patent Appeals and Interferences as that phrase is used in 35 U.S.C. 154(b)(1)(A)(iii), a decision in the review reversing an adverse determination of patentability as that phrase is used in 35 U.S.C. 154(b)(1)(C)(iii), and a final decision in favor of the applicant under § 1.703(e). A remand by a panel of the Board of Patent Appeals and Interferences shall not be considered a decision in the review reversing an adverse determination of patentability as provided in this paragraph if there is filed a request for continued examination under 35 U.S.C. 132(b) that was not first preceded by the mailing, after such remand, of at least one of an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151.
>
> (f) The provisions of this section and §§ 1.703 through 1.705 apply only to **original applications**, except applications for a design patent, filed on or after May 29, 2000, and patents issued on such applications.
>
> (emphasis added)

At the outset, a reissue patent is for "the unexpired part of the term of the original patent." See 35 U.S.C. § 251. Accordingly, a reissue application is not eligible for Patent Term Extension or Adjustment Under 35 U.S.C. § 154(b). Petitioner's argument that, despite the statute's plain language, that Congress did not intend to preclude patent term adjustments, is without merit because such would violate the

plain meaning of the words. Any term adjustment would be in addition to the unexpired part of the term, and is therefore precluded.

The Patent Term Guarantee Act of 1999 amended 35 U.S.C. § 154 to include § 154(b), which provides for adjustment of patent term due to examination delay. The provisions of § 154(b) related to adjustment of patent term due to administrative delays apply only to original applications, other than designs, filed on or after May 29, 2000. The Final Rule published in the Federal Register specifically states that the provisions of 37 CFR §§ 1.701 - 1.705, which implement § 154(b) apply only to original (non-reissue)[1] patents. In particular, 37 CFR 1.702(f) provides that the provisions of §§ 1.702 through 1.705 apply only to original (i.e., non-reissue) applications, except applications for a design patent, filed on or after May 29, 2000, and patents issued on such applications. See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366, 56368 (September 18, 2000). The regulation as promulgated clearly states that reissue applications are not original applications, and are therefore ineligible for Patent Term Adjustment. See also Comment 5 to *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000) (reiterating that an "original application" is any application other than a reissue application).

Petitioner's artfully pled argument that the USPTO lacks the rulemaking authority to determine which types of applications are eligible for Patent Term Adjustment clearly overlooks the fact that 37 CFR 1.701-1.705 is a validly promulgated regulation. More to the point, petitioners' citation of *Texaco, Inc. v. Federal Power Comm.* 412 F.2d 740, 743 (3d Cir. 1969), indicates that petitioners improperly assumed that 37 CFR 1.701 - 1.705 was simply an agency determination. To the contrary, the Patent Term Adjustment provisions specified in 37 CFR 1.701 through 1.705 were promulgated pursuant to 5 U.S.C. § 553(b) and

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[1] As petitioner correctly points out, the language of 37 CFR 1.702 *et seq.* does not include, as above, the clarification that an original patent or application is a "non-reissue" patent or application. Nonetheless, as explained *infra*, an analysis of the case law, statute, Office policy, and MPEP lead to a conclusion that an original patent or application is a patent, or application or patent, which is not a reissued patent or reissue application for patent.

(c) and issued in a Final Rule on September 18, 2000. Further, petitioner has provided no factual or legal bases which would in any way support its contention that reissue applications are eligible for Patent Term Adjustment.

To be sure, petitioner is correct that neither the statute nor the legislative history defined the phrase "original patent" or "original application". Nevertheless, on April 11, 2000, the U.S. Patent and Trademark Office published a Notice in its Official Gazette setting out its interpretation of "original application":

> The phrase original application is interpreted to encompass utility, plant and design applications, including first filed applications, continuations-in-part, continued prosecution applications (CPAs) and the national stage phase of international applications. This interpretation is consistent with the use of the phrase in 35 U.S.C. 251 and the federal rules pertaining to re-examination. **In addition section 201.04(a) of the Manual of Patent Examination and Procedure (MPEP) defines an original application as "an application which is not a reissue application."**[2]
>
> (emphasis added)

Accordingly, the USPTO's longstanding policy, as set forth in both the Official Gazette and the Manual of Patent Examination Procedure, is that an original application is not a reissue application.

Further, the "starting point in every case involving construction of a statute is the language itself." Ethicon, Inc. v. Quigg, 849 F.2d 1422, 1425 (Fed. Cir. 1988) (internal quotation and citation omitted). Here, petitioner argues that the Office has incorrectly construed the statute to preclude reissue applications.

Petitioner's argument, in essence, is that Congress has not clarified whether reissue applications are or are not "original applications."

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[2] 1233 O.G. 54(IV)

Petitioner's point is not well taken: The term "original application" must be read in tandem with other parts of the patent statute.[3] 35 U.S.C. § 154(b). Here, 35 U.S.C. § 252, states

> The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but in so far as the claims of the original and reissued patents are substantially identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are substantially identical with the original patent, shall constitute a continuation thereof and have effect continuously from the date of the original patent.

As such, an analysis of the Patent Act shows that an "original patent" is one surrendered in favour of a "reissued patent." As such, reissued patent and an original patent cannot be one and the same, as one necessarily follows from the other. One must have an original patent in order to obtain a reissued patent, and, therefore, a reissued patent is a patent which is <u>reissued from an original patent</u>.

Placing "original patent" in context, the question is what Congress intended when it limited Patent Term Adjustment to "original applications and patents issued on such applications." If the Office were to adopt petitioner's construction, it would be forced to conclude that the original patent, U.S. Patent No. 5,127,760, issued July 7, 2002, of which the subject patent is a reissue, in fact was never validly issued as a patent. However, the record is clear that the original patent, U.S. Patent No. 5,127,760, issued July 7, 2002, and that a reissue application was filed on February 5, 2005. In the reissue declaration filed on February 5, 2005, petitioner admits that U.S. Patent No. 5,127,760, was granted [issued] on July 7, 2002, but that petitioner "[V]erily believe[s] the **original patent** to be wholly

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[3] See 2A Sutherland Statutory Construction § 47.16 (7th ed. 2007) ("[T]he meaning of doubtful words may be determined by references to their relationship with other associated words and phrases.") (footnote omitted).

or partially inoperative or invalid." (emphasis added). Rather, the record unambiguously demonstrates that the subject patent was reissued from the original patent, U.S. Patent No. 5,127,760, issued July 7, 2002. As such, petitioner concedes, in the above-identified declaration, that the subject patent is a reissue of an original patent. Given that the prior patent was unquestionably an original patent, petitioner cannot reasonably argue that the subject reissued patent, which was "reissued" from the original patent, is also an "original patent:" such an interpretation strips the term "original," as it appears in the reissue application declaration, of meaning.

Further, petitioner's position ignores the settled meaning of the term "original application" as used by practitioners in patent law. Before the enactment of the American Inventors Protection Act of 1999, which enacted the Patent Term Adjustment provisions of 35 U.S.C. § 154(b), the Patent Office announced a clear definition of "original application" for purposes of evaluating patent applications:

> "Original" is used in the patent statute and rules to refer to an application which is not a reissue application. An original application may be a first filing or a continuing application. MPEP § 201.04(a) (5th ed. 1983).

The same definition continues to be used today. See MPEP § 201.04(a) (8th ed. 2001). Given this consistent usage, the obvious conclusion is that the USPTO's definition in the MPEP has entered the modern parlance of patent law. See Patlex Corp. v. Mossinghoff, 758 F.2d 594, 606 (Fed. Cir. 1985) (noting the detailed rules and regulations in the MPEP "describe procedures on which the public can rely"). It must also presume that Congress was aware of this definition and that it adopted it in the AIPA. See 2A Sutherland Statutory Construction § 47.29 ("In the absence of legislative intent to the contrary, or overriding evidence of a different meaning, technical terms or terms of art used in a statute are resumed to have their technical meaning.") (footnotes omitted).

Accordingly, petitioner's argument lacks merit in that the USPTO's interpretation of "original application" in the AIPLA is fully consistent with the term's established meaning in patent law.

With regards to legislative intent, one must examine other provisions in the patent code to see whether "Congress meant something other than what it said statutorily." Ethicon, 849 F.2d at 1426. The USPTO's definition of "original application" is not inconsistent with other statutory pronouncements.

The Patent Act references two types of patents - original patent and reissue patents. Unlike an original patent, which discloses a new invention, a reissue patent is a patent that corrects errors in a previously issued patent. When filing a reissue application, a patent owner essentially asks the Patent Office to fix a mistake in an issued patent, and "the Director shall . . . reissue the patent for the invention disclosed in the original patent." 35 U.S.C. § 251; see also § 252 ("The surrender of the original patent shall take effect upon the issue of the reissued patent . . . .")(emphasis added). The Act's fee provision also adopts this distinction between applications for patents. Compare 35 U.S.C. § 41(a)(1)(A)(establishing the filing fee for "each application for an original patent") with § 41(a)(4)(A) (establishing the filing fee for "each application for a reissue of a patent." There is no distinction made between first filed application and continuation applications.

As such, the USPTO's interpretation of the term "original application" in MPEP § 201.04(A) - that any application that is not a "reissue application" is, by default, an "original application" - is entirely consistent with the Patent Act. As shown by the Official Gazette's citation to 35 U.S.C. § 251, the USPTO is simply using "original application" and "reissue application" as shorthand for "an application for an original patent" and "an application for a reissue patent." This nomenclature was present in other Patent Office regulations existing at the time. Compare 37 CFR 1.16(a) (1999) ("each application for an original patent") with § 1.16(b),(c),(d) ("an original application"); see also 37 CFR 1.179 (1999) (interchanging "an application for a reissue" and "the reissue application").

Under this established understanding, the subject reissue application is not an original application.

In this regard, petitioner's assertion that the Office has "misquoted" 37 CFR 1.702(f) in the prior decision by stating that original applications are non-reissue applications simply

has no merit. Rather, the Office has included the clarification to remind applicants that original applications are applications, other than reissue applications.

Likewise, petitioner's argument that the Office has not properly interpreted legislative intent is not well taken. See Chevron U.S.A., Inc. v. National Resources Defense Council, Inc., 467 U.S. 837, 842-843 (1984) (first, always, is the question whether Congress has directly spoken to the precise question at issue; however, if court determines Congress has not directly addressed the precise question at issue, question for the court is whether the agency's answer is based on a permissible construction of the statute). While petitioner may assert that "it is unconscionable" to believe "that the legislature meant to single out reissue applications for 'bureaucratic abuse'," (emphasis added) petitioner's argument lacks any rational basis: As stated above, the USPTO's interpretation of "original patent" as excluding a "reissue patent" is an entirely reasonable construction.

The USPTO's statutory interpretation of a law it is charged with administering is entitled to deference. See Lacavera v. Dudas, 441 F.3d 1380, 1383 (Fed. Cir. 2006) (explaining that the USPTO is entitled to Chevron deference when Congress has charged it with administering the statute) (citing United States v. Mead Corp., 533 U.S. 218 (2001); Chevron U.S.A., Inc. v. Natural Res. Def. Council, 467 U.S. 837 (1984)). Likewise, the USPTO's interpretation of its own regulations is entitled to substantial deference. See Custom Computer Servs., Inc. v. Paychex Props., Inc., 337 F.3d 1334, 1336 (Fed. Cir. 2003) ("[T]he USPTO's interpretation must be given controlling weight unless it is plainly erroneous or inconsistent with the regulation.") (internal quotes and citation omitted) (citing Bowles v. Seminole Rock & Sand Co., 325 U.S. 410, 414 (1945)). When interpreting "narrow technical and specialized statutory and regulatory provisions" the USPTO's interpretation is entitled to "considerable deference." In re Morganroth, 885 F.2d 843, 848 (Fed. Cir. 1989). This Court also must "accord particular deference to an agency interpretation of 'longstanding' duration." North Haven Bd. of Ed. v. Bell, 456 U.S. 512, 522, n. 12 (1982). The USPTO's interpretation need not be the only possible construction. Chemical Mfrs. Ass'n v. Natural Res. Def. Council, Inc., 470 U.S. 116, 125 (1985).

Lastly, petitioner's reference of Patent No. RE 34,712 as evidence that "there are examples where the term of a reissue patent has been extended" is not convincing. U.S. Patent No. RE 34,712 is a patent in which the term was extended pursuant to 35 U.S.C. § 156 due to delays relating to regulatory review by the Food and Drug Act. While 35 U.S.C. § 156 permits reissue applications to obtain patent term extension pursuant to such delays, petitioner has filed for patent term adjustment under 35 U.S.C. § 154, and has not claimed the delay was due to regulatory review. Rather, petitioner claims that the delay was due to processing and examination at the USPTO. As such, the reissue patent petitioner cites as an example supporting its conclusion involves a different statute as well as a different source of delay, and is therefore inapplicable to the situation at hand.

In summary, it is clear that the provisions of 37 CFR 1.702 and 35 U.S.C. § 154(b) are not an appropriate vehicle for seeking the relief petitioner desires. To the contrary, for the USPTO to grant the relief requested would be not only an abuse of discretion, but also contrary to law.

Since the above-identified application is a reissue application, and as such, is clearly not an original application, this application is not eligible for the adjustment of patent term under 35 U.S.C. § 154. The Office has no authority to grant an adjustment of the patent term due to administrative delays except as authorized by 35 U.S.C. § 154.

Accordingly, the petition on application for patent term adjustment has been reconsidered and the request for patent term adjustment is **DENIED**.

Telephone inquiries with regard to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272 - 3231.

Charles A. Pearson
Director, Office of Petitions

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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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AUG 27 2008

OFFICE OF PETITIONS

In re Application of :
Yoshinori Nakagawa, et al. :
Application No.: 11/052,026 : ON PETITION
Filed: February 8, 2005 :
Attorney Docket No.: 01272.518927 :

This is a decision on the petition, filed August 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 July 24, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2853 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 Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/27/09 Paper No.: _____

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 11052062 Patent No.: 7395778

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Nadine Norton
SPE 1792

1792
Art Unit

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NOV 17 2009

Robert A Vanderhye
801 Ridge Drive
McLean, VA 22101-1625

In re Application of :
Morgan Thompson : DECISION ON PETITION
Application No. 11/052,071 : UNDER 37 CFR §1.181
Filed: Feb. 8, 2005 :
For: COMBINATION ASCENDER/DESCENDER

This is a decision on Appellant's Petition to the Commissioner according to 37 CFR 1.181 which was filed December 24, 2008.

The petition is **GRANTED** as indicated below.

Appellant's petition addresses four issues:
1. That a Notification of Non-Compliant Appeal Brief was erroneously issued by the examiner on Oct. 6, 2008 in response to an Appeal Brief filed July 25, 2008.
2. That Appellant responded to the Notification of Non-Compliant Appeal Brief on Oct 7, 2008 and argued that the Brief was Compliant with 37 CFR 41.37(c)(1)(viii).
3. That the examiner erroneously maintained that the Brief was non-compliant in a Communication mailed Dec. 18, 2008, stating that the headings were improper and the application was still in a non-compliant status as set forth on Oct. 6, 2008.
4. That an amended Appeal Brief filed on December 24, 2008 (with the Petition under 37 CFR §1.181) addressed any possible non-compliant issues by underlining the first line of each rejection in the "Argument" section of the Appeal Brief, thus ensuring that Appellant had addressed the issues raised by examiner in the event the Petition was not decided prior to the time limit for responding to the Notification of Non-Compliant Appeal Brief mailed Oct. 6, 2008.

A review of the record shows that Appellant's Appeal Brief filed July 25, 2008 should have been considered by the examiner as having headings as required under 37 CFR 41.37(c)(1)(viii) and thus is considered compliant.

For the reasons presented above the petition is **GRANTED**.

RE: Application No. 11/052,071

A Letter Vacating the Notice of Non-Compliant Appeal Brief and confirming that the Appeal Brief is ready for consideration by the examiner was mailed on Oct 13, 2009.

The application is being forwarded to the examiner of record for proper consideration of the Appeal Brief filed on July 25, 2008.

Any questions regarding this decision can be directed to Katherine Mitchell at (571) 272-7069.

Katherine Matecki

Katherine A. Matecki, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5250

KAM/snm: 11/3/2009

SM

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MAR 23 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

In re Application of:
HYOUNG-JOON PARK, et al.
Application No. 11/052,095
Filed: August 2, 2005
For: MANAGING TRANSMISSION CONTROL PROTOCOL (TCP) CONNECTIONS

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on February 06, 2009 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider all references listed on the Form PTO-1449s filed with the Information Disclosure Statements (IDSs) on November 10, 2008.

The petition is **Dismissed as moot**.

BACKGROUND

The November 10, 2008 IDS was filed under 37 CFR 1.97(c) and does meet the requirements of both rules 1.97 and 1.98 so consideration by the examiner is warranted. The examiner has considered the references, and a signed, initialed and dated 1449 has been scanned into IFW as of March 18, 2009. As applicant's relief has already been received, and the petition is moot and therefore dismissed.

Any inquiry concerning this decision should be directed to Chau Nguyen at (571) 272-3126.

Chau T. Nguyen
Workgroup Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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APR 30 2010

KANESAKA BERNER AND PARTNERS LLP
1700 DIAGONAL RD
SUITE 310
ALEXANDRIA, VA 22314-2848

In re Application of	:	
Rolf Cisar	:	DECISION ON PETITION
Application No. 11/052,101	:	UNDER 37 CFR §1.181
Filed: February 8, 2005	:	
For: DEVICE AND METHOD FOR	:	
THE TRANSPORT OF WORK PIECES	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed June 23, 2008 requesting withdrawal of the finality of the Office action mailed March 21, 2008.

The petition is **GRANTED.**

The record reflects that a non-final Office Action was mailed on September 12, 2007. The Office action consisted of rejections under 35 U.S.C. §112, second paragraph on claims 1-30 for failing to recite the releasable connection between the swivel device and the transport bar. The examiner indicated that claim 4 would correct the aforementioned deficiency in claim 1. Applicant filed an amendment on December 6, 2007 amending the claims to overcome the 112, second paragraph issues. The examiner issued a final Office action on March 21, 2008 in which the claims were rejected on art for the first time.

In the petition filed June 23, 2008 to withdraw the finality of the Office action mailed March 21, 2008, applicant argues that the non-final Office action dated September 12, 2007 was improper with only the 112 rejections because the invention was sufficiently complete and understandable to warrant a prior art search. The applicant further argues that since the examiner failed to provide a complete first Office action on the merits, the subsequent final rejection was premature.

MPEP 706.07 sets forth that "the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal"; and that in making the final rejection, they [the grounds of rejection] "must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection." Furthermore, MPEP 706.07(a) sets forth that the

second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

With regard to the propriety of the finality of the Office action mailed March 21, 2008, the issue is whether or not the claims were sufficiently unclear as to preclude a proper search based upon the claimed subject matter. Noting the examiner's indication that claim 4 corrects the ascertained deficiency; it is believed that a search of the claimed subject matter was possible. Therefore, the final action was neither necessitated by an amendment nor based on information submitted by an information disclosure statement.

The finality of the Office action mailed on March 21, 2008 is hereby withdrawn and the application is being returned to the examiner for consideration and for any further action consistent with this decision.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Saul J. Rodriguez at (571) 272-7097.

David L. Talbott, Director
Technology Center 3600
(571) 272-1934

sjr/lm: 4/20/10
LM

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OFFICE OF PETITIONS

BORDEN LADNER GERVAIS LLP
ANNE KINSMAN
WORLD EXCHANGE PLAZA
100 QUEEN STREET, SUITE 1100
OTTAWA, CANADA KIP 1-JP

In re Application of	:	
Harmeet Singh BEDI	:	
Application No. 11/052,105	:	DECISION ON PETITION
Filed: February 8, 2005	:	
Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 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, November 28, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 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 an amendment, (2) the petition fee of $810; and (3) the required 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 the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2439 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/052,105	02/08/2005	Harmeet Singh Bedi	

CONFIRMATION NO. 6392

POA ACCEPTANCE LETTER

OC000000040145234

26123
BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Date Mailed: 02/18/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/02/2009.

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.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
KWAK, Won-Kyu	:	
Application No. 11/052,108	:	DECISION GRANTING PETITION
Filed: February 8, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P57345**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 27, 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 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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Jack Paavila
Box 1151
Alexandria
KOC IA0 Canada

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OFFICE OF PETITIONS

In re Application of	:	
Alain Poupart	:	
Application No. 11/052,109	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. 250-4US	:	FROM RECORD
	:	

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 3, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Buccei
Petitions Examiner
Office of Petitions

cc: Alain Poupart
271 Rue Letourneau
St-Constant, Quebec J5A 2A6
Canada

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Jack Paavila
Box 1151
Alexandria, KOC IA0
Canada

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OFFICE OF PETITIONS

In re Application of	:	
Alain Poupart, et al.	:	
Application No. 11/052,109	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. 250-4US	:	FROM RECORD
	:	

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 14, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jack Paavila 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 Alain Poupart at the address indicated below.

There is an outstanding Office action mailed May 5, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Alain Poupart**
271 Rue Letourneau
St.-Constant, Quebec J5A 2A6
Canada

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/052,109	02/08/2005	Alain Poupart	250-4US

CONFIRMATION NO. 6399

POWER OF ATTORNEY NOTICE

OC000000030073838

5568
JACK PAAVILA
BOX 1151
ALEXANDRIA, KOC IA0
CANADA

Date Mailed: 05/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No.

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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JUL 31 2009

OFFICE OF PETITIONS

In re Patent No. 7,440,926	:	
Robert J. Harrington	:	DECISION DISMISSING
Application No. 11/052,146	:	REQUEST FOR
Issue Date: October 21, 2008	:	RECONSIDERATION OF
Filed: February 7, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
0822218-0103	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705, filed December 22, 2008. Patentee requests that the determination of patent term adjustment be corrected from nineteen (19) days to one hundred twenty (120) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 19 days.

BACKGROUND

This application was filed on February 7, 2005. On August 22, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 0 days[1]. On October 21, 2008, the application matured into U.S. Patent No. 7,440,926, with a revised patent term adjustment of 19 days. The Office determined that the 256 days of Office

[1] 101 days of Office delay was reduced by 238 days of Office delay for a patent term adjustment of 0 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 101 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the issuance of the patent. As such, 156 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 238 days, the patent issued with a revised patent term adjustment of 19 (101 + 156 - 238) days.

On December 22, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 120 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

---

[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 October 21, 2008, the application was pending three years and 257 days.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[5] A first Office action was not mailed until July 17, 2006, fourteen months and 101 days after the application filing date, February 7, 2005.

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 358 (101 + 257) days as these periods do not occur on the same day. Further, given the applicant delay of 238 days, patentee asserts entitlement to 120 (358 - 238) days of patent term adjustment.

OPINION

Patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C.

---

[6] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), February 7, 2005, and ending on the date of issuance of the patent, October 21, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 101 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 257 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 257 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 101 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 257 days and the 101 days is neither permitted nor warranted. 257 days is the actual number of days issuance of the patent was delayed by the Office.

Accordingly, at issuance, the Office properly entered 156 additional days of adjustment pursuant to §1.702(b) for a total Office delay of the greater period of 257 days.

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 19 days (257 days of Office delay - 238 days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

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FEB 06 2007

OFFICE OF PETITIONS

In re Application of Davies et al.	:	
Application No. 11/052,154	:	DECISION ON PETITION
Filing Date: February 7, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ID091US13	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 3771 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/052,154	02/07/2005	3771	1600	ID091US13	21	32	2

CONFIRMATION NO. 5454
CORRECTED FILING RECEIPT
OC000000022334219
OC000000022334219

23347
GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK, NC 27709-3398

Date Mailed: 02/05/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael Birsha Davies, Ware, UNITED KINGDOM;
David John Hearne, Luton, UNITED KINGDOM;
Paul Kenneth Rand, Letchworth, UNITED KINGDOM;
Richard Ian Walker, Ware, UNITED KINGDOM;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/890,700 07/14/2004
which is a CON of 10/022,072 12/13/2001 PAT 6,792,945
which is a DIV of 09/456,201 12/07/1999 PAT 6,378,519
which is a CON of 09/166,557 10/05/1998 PAT 6,032,666
which is a CON of 08/979,217 11/26/1997 PAT 5,860,419
which is a DIV of 08/467,469 06/06/1995 PAT 5,873,360
which is a CON of 08/175,174 12/28/1993 ABN
which is a CON of 07/663,145 03/01/1991 ABN

Foreign Applications

UNITED KINGDOM 90 04781.2 03/02/1990
UNITED KINGDOM 9004781.2 03/02/1990

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/052,154

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Inhalation device

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 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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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael Birsha Davies et al	:	
Application No. 11/052,154	:	DECISION GRANTING PETITION
Filed: February 7, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ID091US13	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 29, 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 March 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3771 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/052,155	02/07/2005	Gary D. Cochran	RB01CIP	5455

25287 7590 12/15/2008
GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA, MI 48152

EXAMINER
ROGERS, DAVID A

ART UNIT	PAPER NUMBER
2856	

MAIL DATE	DELIVERY MODE
12/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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

In re Application of COCHRAN ET AL.
Appl. No.: 11/052,155
Filed: February 07, 2005
For: HERMETIC FUEL LEVEL SENDER

DECISION ON PETITION
37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed March 30, 2006, requesting the Commissioner to invoke supervisory authority and issue an Advisory Action compliant with MPEP 714.13.

The application file record indicates that the prosecution has advance to an appeal, awaiting Board of Appeal and Interference Docketing.

In view of the advanced prosecution in the application, the petition is deemed moot and therefore dismissed.

SUMMARY: Petition to Invoke the Supervisory Authority of the Commissioner is Dismissed. The patent application is awaiting a decision by the Board of Appeal and Interference.

John Cabeca
Director
Patent Examining Technology Center 2800

GEORGE LAWRENCE BOLLER
SUITE 316
17199 N LAUREL PARK DR
LIVONIA, MI 48152

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JUL 11 2008

BRACHER RAWLINS LLP
Fox Court
14 Gray's Inn Road
London WC1X 8HN

Enclosure: February 13, 2008 letter, requesting registration of a "Freezing Injunction"

For: U.S. Patent Nos. 6,818,033; 6,849,094; 6,936,095; 7,207,197 and 7,300,482; and U.S. Patent Application Publication Nos. 2003/0159412; 2004/0103785; 2004/0083773; 2004/0244438; 2005/0092032; 2005/0194295 and 2006/0162299	:	**DECISION DISMISSING REQUEST**

This is a decision on the letter, dated February 13, 2008, requesting registration of a "Freezing Injunction," issued In The High Court of Justice, Chancery Division, against (a) U.S. Patent Nos. 6,818,033, 6,849,094, 6,936,095, 7,207,197, 7,300,482, any other U.S. patents for which John Herbert North is the applicant, and (b) U.S. Patent Application Publication Nos. 2003/0159412, 2004/0103785, 2004/0083773, 2004/0244438, 2005/0092032, 2005/0194295 and 2006/0162299. The letter is taken as written requests for both (a) a citation of information under 35 U.S.C. § 301 in multiple patents, and (b) a citation of information under 35 U.S.C. § 122(b) in multiple published patent applications.

This request is before the Office of Patent Legal Administration for decision.

The present request for citation of the Freezing Injunction in the above-captioned U.S. patents and patent application publications has been fully considered. The request is **dismissed**, for the reasons set forth below.

RELEVANT STATUTES, REGULATIONS, AND EXAMINING PROCEDURE

37 CFR 1.4(c) provides:

> "Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must

be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects."

35 U.S.C. § 122(b) provides:

> (c) PROTEST AND PRE-ISSUANCE OPPOSITION.— The Director shall establish appropriate procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication of the application without the express written consent of the applicant.

The Manual of Patent Examining Procedure (MPEP) § 1134 provides (in part):

> Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) that does not comply with the requirements of 37 CFR 1.99 will be disregarded and not entered into the application file.

35 U.S.C. § 301 provides:

> Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

The Manual of Patent Examining Procedure (MPEP) § 2205 provides (in part):

> The prior art which may be submitted under 35 U.S.C. 301 is limited to "written prior art consisting of patents or printed publications."
>
> If the prior art citation contains any issue not directed to patents and printed publications, it should not be entered into the patent file, despite the fact that it may otherwise contain a complete submission of patents and printed publications with an explanation of the pertinency and applicability. Rather, the prior art citation should be returned to the sender as described in MPEP § 2206.

DISCUSSION

The instant written request for citation of the Freezing Injunction is improper, because 37 CFR 1.4(c) provides that "each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects." In

this instance, a third party has provided written requests for both (a) a citation of information under 35 U.S.C. § 301 in a patent, and (b) a citation of information under 35 U.S.C. § 122(b) in a published patent application. Accordingly, the request is improper, and is dismissed.

It is additionally noted as follows:

1. The request for "any other U.S. patents for which John Herbert North is the applicant" is indefinite and does not identify a specific patent to which the request may be applied. Further, 37 CFR 1.4(b) requires that "a separate copy of every paper to be filed in a patent, patent file, or other proceeding must 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," and requestor clearly has not provided copies for all the above-captioned patents, published patent applications, and any other patents for which John Herbert North is the applicant.

2. The prior art which may be submitted under 35 U.S.C. § 301 is limited to patents or printed publications. The present information citation (submission) contains an issue not directed to patents and printed publications, as well as comments on the information submitted. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 301 and MPEP 2205.

3. Any submission filed by a third party (e.g., a protest) in an application published under 35 U.S.C. 122(b) (without the express written consent of the applicant) must comply with the requirements of 37 CFR 1.99. Requester has not shown the present information submission to be compliant with 35 U.S.C. § 122(b) and MPEP 1134.

CONCLUSION

Accordingly, the written request under 35 U.S.C. § 301 and 35 U.S.C. § 122(b) for citation of prior art is **dismissed**

The citation (submission) of information will not be entered into any file, and it is returned herewith to the sender.

Any questions concerning this communication should be directed to Nicole D. Dretar, Legal Advisor, at 571-272-7717.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

June 24, 2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090302

DATE : March 5, 2009

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction on Patent No.: 7,312,195

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Certificates of Correction Branch - PK 3-910
Palm location 7590 - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ Approved — All changes apply.

☐ Approved in Part — Specify below which changes do not apply.

☐ Denied — State the reasons for denial below.

Comments:

SPE: /Jon P Weber/ Art Unit 1656

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Edward Edwin Routery
1123 East Betsy Lane
Gilbert, AZ 85296

In re Application of	:	
Edward E. Routery	:	
Application No. 11/052,175	:	DECISION ON PETITION
Filed: June 7, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102
	:	

This is a decision on the petition under 37 CFR 1.102, filed June 23, 2006, to make the above-identified application special as set forth in M.P.E.P. § 708.02.

The petition is **DISMISSED**.

The Office is unable to review the instant petition on its merits because the petition fails to identify on what grounds the petitioner is requesting to make special under 37 CFR 1.102 (b), (c) or (d), which include sections I-XII under MPEP 708.02. The conditions set forth in MPEP 708.02 include categories (I) Manufacture, (II) Infringement, (III) Health, (IV) Age, (V) Environmental Quality, (VI) Energy, (VII) Recombinant DNA, (VIII) Accelerated Examination, (IX) Superconductivity, (X) HIV/AIDS and Cancer, (XI) Countering Terrorism, and (XII) Biotechnology filed by Small Entities. Petitions to make special are accorded to applications meeting the requirements outlined in one of the categories as set forth in MPEP 708.02. The signature is missing on the petition and the petition failed to provide supporting evidence for any of the categories. 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
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 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 3747 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIW Aug-07

HAYES SOLOWAY PC
175 CANAL STREET
MANCHESTER NH 03101

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Konnik et al.	:	
Application Number: 11/052182	:	DECISION ON PETITION
Filing Date: 02/07/2005	:	
Attorney Docket Number:	:	
SURP.1002		

This is a decision on the petition filed on 28 March, 2007, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 1 March, 2007, for failure to file a proper reply to the final Office action mailed on 28 August, 2006, which set a three (3) month shortened statutory period for reply. On 5 March, 2007 (certificate of mailing date 28 February, 2007), petitioners filed a three (3) month extension of time and an amendment after final rejection. The amendment did not place the case in condition for allowance, however, and an Advisory Action was mailed on 16 March, 2007. Notice of Abandonment was mailed on 4 April, 2007.

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 2174 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

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	: Jonathan E. Fay	: DECISION ON REQUEST FOR
Patent Number	: 7672967	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,241	: OF WYETH
Filed	: 02/07/2005	:
		:

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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HOWARD J. GREENWALD
349 W. COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445-2408

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang et al	:	
Application No. 11/052,263	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. XW-782	:	FROM RECORD
	:	

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 **NOT APPROVED** as moot.

While an attorney or agent at Howard J. Greenwald P.C. submitted the above-identified application, a review of the file record indicates that Howard Greenwald and those practitioners associated with Customer No. 37282 were not giving power of attorney. 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 above-listed address until otherwise notified by a registered practitioner given power of attorney in this application, an assignee, or the applicants. See 37 CFR 1.33(a)(2).

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

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5 COLUMBIA CIRCLE
ALBANY, NY 12203

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DEC 1 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Gerald J. Tanoury et al	:	
Application No. 11/052,268	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 0701.177C	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 21, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 22, 2005.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1621.

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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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	:
Masahiro Kondo et al	:
Application No. 11/052,291	: DECISION GRANTING PETITION
Filed: February 8, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2018-1019	:

This is a decision on the petition, filed November 15, 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 14, 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 2832 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

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OFFICE OF PETITIONS

J. MICHAEL BOGGS
KILPATRICK STOCKTON
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101-2400

In re Application of	:	
Donald E. Todd et al	:	
Application No. 11/052,332	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 32884-309990	:	

This is a decision on the petition, filed March 1, 2006, and supplemented on March 3, 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 31, 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 1623 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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Paper No. _____

Date : March 3, 2006

TO : Director, Office of Patent Publication

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FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Donald E. Todd et al
Application No. :11/052,332
Filed :February 7, 2005

The above-identified application has been assigned Patent No. 7,015,319 and an issue date of March 21, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 21, 2006:

"All reference to Patent No. 7,015,319 to Donald Eugene Todd et al of North Carolina for PROCESS FOR CHEMICALLY BONDING AN ODOR-ENCAPSULATING AGENT TO TEXTILES AND TEXTILES FORMED BY THE PROCESS appearing in the Official Gazette of March 21, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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JAN 27 2006

OFFICE OF PETITIONS

JOHN H. THOMAS, P.C.
536 GRANITE AVENUE
RICHMOND VA 23226

In re Application of	:	
Williams, et al.	:	
Application No. 11/052,338	:	ON PETITION
Filed: 7 February, 2005	:	
Attorney Docket No. HAMBE 164	:	

This is a decision on the petition filed on 8 December, 2005, to obtain a filing date of 4 February, 2005, rather than the presently accorded filing date of 7 February, 2005, for the instant application, and considered under 37 C.F.R. §1.53.

For the reasons set forth below, the petition is **DISMISSED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was deposited with the Office via Express Mail (on 8 February, 2005) and given a filing date of 7 February, 2005;
- the Office mailed a filing receipt on 11 March, 2005, setting forth 7 February, 2005, as the filing date;
- on 25 March, Petitioner requested a corrected filing receipt (bearing the earlier filing date), however, on 8 April, 2005, the Office responded indicating that Petitioner had failed to submit a copy of the US Postal Service (USPS) Express Mail label, and dismissed the request;

- Petitioner resubmitted his request on 8 April, 2005, this time asserting that he had submitted the label document in question and enclosing a copy of what he averred was a true copy of USPS Express Mail Label No. ED 443507025US, however, as is clear from the copy submitted the document bears neither a hand-written date in the "Date In" box, nor a USPS date stamp evidencing receipt by the USPS;

- the Office had not responded to the 8 April, 2005, request before Petitioner filed the instant petition on 8 December, 2005, enclosing, *inter alia*, copies of (a) the earlier requests, (b) the undated USPS Express Mail label, (c) the application as averred to have been filed, and (d) the USPS Track & Confirm document evidencing that the package bearing USPS Express Mail Label No. ED 443507025US was "ENROUTE, February 7, 2005, 6:49 p.m., RICHMOND VA 23232."

As of this writing, Petitioner–one registered to practice before the Office and presumed to be aware of the caveat connected with the failure to deposit an Express Mail transmittal directly with USPS personnel–has provided no evidence in support of a filing date earlier than that presently accorded of 7 February, 2005.

Petitioner's own evidence demonstrates that the USPS acknowledges taking/having possession of the package in question no earlier than the evening of Monday, 7 February, 2005.

If Petitioner delivered the package to a USPS clerk at a post office, he would have received–and should submit a true copy of–a USPS dated/date-stamped copy of the USPS Express Mail label. However, if Petitioner improvidently deposited the package in question bearing the application in question into a mail box after collection on Friday, 4 February, 2005, Petitioner with not be able to bear the burden of proof in this matter.

CONCLUSION

The petition is **dismissed**. The error does not appear to be that of the Office and the petition fee will not be refunded.

The application is being referred to the Office of Initial Patent Examination for further processing consistent with this decision before being forwarded for substantive examination in due course.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr. 03-06

Paper No: __

JOHN H. THOMAS, P.C.
536 GRANITE AVENUE
RICHMOND VA 23226

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OFFICE OF PETITIONS

In re Application of	:	
Williams, et al.	:	
Application No. 11/052,338	:	ON PETITION
Filed: 7 February, 2005	:	
Attorney Docket No. HAMBE 164	:	

This is a decision on the renewed petition filed on 16 February, 2006, to obtain a filing date of 4 February, 2005, rather than the presently accorded filing date of 7 February, 2005, for the instant application, and now considered under 37 C.F.R. §1.10.

For the reasons set forth below, the petition is **DISMISSED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was deposited with the Office via Express Mail (on 8 February, 2005) and given a filing date of 7 February, 2005;
- the Office mailed a filing receipt on 11 March, 2005, setting forth 7 February, 2005, as the filing date;
- on 25 March, Petitioner requested a corrected filing receipt (bearing the earlier filing date), however, on 8 April, 2005, the Office responded indicating that Petitioner had failed to submit a copy of the US Postal Service (USPS) Express Mail label, and dismissed the request;

- Petitioner resubmitted his request on 8 April, 2005, this time asserting that he had submitted the label document in question and enclosing a copy of what he averred was a true copy of USPS Express Mail Label No. ED 443507025US, however, as is clear from the copy submitted the document bears neither a hand-written date in the "Date In" box, nor a USPS date stamp evidencing receipt by the USPS;

- the Office had not responded to the 8 April, 2005, request before Petitioner filed the original petition on 8 December, 2005, enclosing, *inter alia*, copies of (a) the earlier requests, (b) the undated USPS Express Mail label, (c) the application as averred to have been filed, and (d) the USPS Track & Confirm document evidencing that the package bearing USPS Express Mail Label No. ED 443507025US was "ENROUTE, February 7, 2005, 6:49 p.m., RICHMOND VA 23232," and so the petition was dismissed on 27 January, 2006;

- Petitioner–one registered to practice before the Office and presumed to be aware of the caveat connected with the failure to deposit an Express Mail transmittal directly with USPS personnel–now provides a copy of the mail log, Petitioner's office record, which, consistent with ¶(d) of 37 C.F.R. §1.10,[1] Petitioner avers came into existence within one working day

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[1] The regulations at 37 C.F.R. §1.10 provide:

§ 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 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.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(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

¶(d) of 37 C.F.R. §1.10. after the Express Mail package in question was deposited with the USPS, and which indicates that package bearing USPS Express Mail Label No. ED 443507025US was delivered to the USPS on 4 February, 2005–however, while Petitioner states that it is his practice to deliver such packages "into the hands of Post Office employees during regular Post Office business hours" (Petitioner's Statement, at page 2), Petitioner does not affirmatively state that in this particular case Petitioner made such a deposit "prior to the last scheduled pick up for that day['] " as required under ¶(d) of 37 C.F.R. §1.10.

Notably, if it is Petitioner's practice to deliver these packages into the hands of a USPS employee, the question arises as to why there is no date-stamped USPS Express Mail label to accompany the petition in this matter.

However, as noted earlier, Petitioner's burden here is merely to satisfy the requirements of ¶(d) of 37 C.F.R. §1.10.

This Petitioner has yet to do.

Petitioner should track the regulation (¶(d) of 37 C.F.R. §1.10) in proceeding through the showings of/in any future effort to prevail.

CONCLUSION

The petition is **dismissed**. The error does not appear to be that of the Office and the petition fee will not be refunded.

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business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(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.

[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]

The application is being referred to the Office of Initial Patent Examination for further processing consistent with this decision before being forwarded for substantive examination in due course.

Telephone inquiries specific to 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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OFFICE OF PETITIONS

JOHN H. THOMAS, P.C.
536 GRANITE AVENUE
RICHMOND VA 23226

In re Application of	:	
Williams, et al.	:	
Application No. 11/052,338	:	ON PETITION
Filed: 4 February, 2005	:	
Attorney Docket No. HAMBE 164	:	

This is a decision on the second renewed petition filed on 10 March, 2006, to obtain a filing date of 4 February, 2005, rather than the presently accorded filing date of 7 February, 2005, for the instant application, and now considered under 37 C.F.R. §1.10.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was received in the Office via Express Mail on 8 February, 2005, and given a filing date of 7 February, 2005;
- the Office mailed a filing receipt on 11 March, 2005, setting forth 7 February, 2005, as the filing date;
- on 25 March, Petitioner requested a corrected filing receipt (bearing the earlier filing date), however, on 8 April, 2005, the Office responded indicating that Petitioner had failed to submit a copy of the US Postal Service (USPS) Express Mail label, and dismissed the request;

- Petitioner resubmitted his request on 8 April, 2005, this time asserting that he had submitted the label document in question and enclosing a copy of what he averred was a true copy of USPS Express Mail Label No. ED 443507025US, however, as is clear from the copy submitted the document bears neither a hand-written date in the "Date In" box, nor a USPS date stamp evidencing receipt by the USPS;

- the Office had not responded to the 8 April, 2005, request before Petitioner filed the original petition on 8 December, 2005, enclosing, *inter alia*, copies of (a) the earlier requests, (b) the undated USPS Express Mail label, (c) the application as averred to have been filed, and (d) the USPS Track & Confirm document evidencing that the package bearing USPS Express Mail Label No. ED 443507025US was "ENROUTE, February 7, 2005, 6:49 p.m., RICHMOND VA 23232," and so the petition was dismissed on 27 January, 2006;

- with a petition filed on 16 February, 2006, Petitioner[1] provided a copy of the mail log, Petitioner's office record, which, consistent with ¶(d) of 37 C.F.R. §1.10,[2] Petitioner avers

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[1] Petitioner, of course, is registered to practice before the Office and presumed to be aware of the caveat connected with the failure to deposit an Express Mail transmittal directly with USPS personnel.

[2] The regulations at 37 C.F.R. §1.10 provide:

§ 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 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.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

(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

came into existence within one working day after the Express Mail package in question was deposited with the USPS, and which indicates that package bearing USPS Express Mail Label No. ED 443507025US was delivered to the USPS on 4 February, 2005–however, because Petitioner failed to state affirmatively that Petitioner made this particular deposit "prior to the last scheduled pick up for that day" as required under ¶(d) of 37 C.F.R. §1.10, the petition was dismissed on 8 March, 2006;

- with the instant petition, Petitioner cures this deficiency.

Petitioner appears to have tracked and so satisfied the requirements of the regulation (¶(d) of 37 C.F.R. §1.10) in this matter.

CONCLUSION

The petition is **granted**.

The error does not appear to be that of the Office and the petition fee will not be refunded.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 4 February, 2005, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 4 February, 2005.

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business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Commissioner to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

(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.

[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]

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAIL

JUL 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HARISH DHINGRA
10700 Rockley Road
Houston TX 77099

In re Application of :
Charlie L. Tolliver :
Application No. 11/052,339 : DECISION ON PETITION
Filed: February 07, 2005 : TO MAKE SPECIAL
For: **SYSTEM, APPARATUS AND METHOD** :
FOR SCREENING PERSONNEL :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed February 07, 2005 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a birth certificate that Charlie L. Tolliver is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/052,377	02/07/2005	Daniel Nathan Nissani (Nissensohn)	#122004

CONFIRMATION NO.
4986

Martin MOYNIHAN
PRTSI, Inc.
P.O. Box 16446
Arlington, Virginia 22215

Date Mailed: July 24, 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAY 27 2005

LORI M FRIEDMAN
300 BENTON VIEW DRIVE
PHILOMATH OR 97370

In re Application of	:	
Gamble, W.	:	
Serial No.: 11/052,388	:	PETITION TO MAKE SPECIAL
Filed: February 7, 2005	:	
Attorney Docket No. WG-1	:	

This is in response to applicant's petition filed on February 7, 2005 to make the above-identified application special under the provisions 37 CFR 1,102(c), based on the age of applicant. No fee is required for this petition.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there by any questions with regard to this letter please contact William Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 572-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Joonsuk Kim	: DECISION ON REQUEST FOR
Patent Number	: 7616955	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,389	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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MARSHALL & MELHORN
FOUR SEAGATE, EIGHT FLOOR
TOLEDO OH 43604

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Matthias Lau	:	
Application No. 11/052,399	:	DECISION ON PETITION
Filed: 02/07/2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1-16907	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 1, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

The petition is **DISMISSED AS MOOT**.

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a

late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the declaration filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the $1,370.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Nevertheless, the Office notes that the reference to add the prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed 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 a incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP 201.06(c) and 608.04(b).

Therefore, petitioner must file an amendment that complies with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5) to correct the improper incorporation by reference to the prior filed applications. No further action on this matter is necessary by the Office of Petitions.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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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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OFFICE OF PETITIONS

In re Application of	:	
Ronald N. Drake	:	
Application No. 11/052,409	:	DECISION ON PETITION
Filed: February 07, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. DRAK-001/02US	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i) & (ii), filed August 16, 2006, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and (b) materially contributing to certain categories related to energy resource as set forth in M.P.E.P. § 708.02, Section VI.

The petitions are **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition fails to show the invention meets the materiality standard. The instant invention is broadly directed to media separation. The purification of contaminated water does not in itself render the invention to be deemed materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state that special status is sought because the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. enhances the quality of the environment by

contributing to the restoration or maintenance of basic life-sustaining natural elements. If the application disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition fails to meet the materiality standard of 37 CFR 102(c)(2)(ii). Although the statements in the petition pertaining to coal bed natural gas development may be generally directed to inventions relating to the development of energy sources when the instant invention is used/applied in certain applications, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to inventions relating to the reduction of energy consumption. The materiality standard does not permit the applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to category (A) or (B) as set forth above.

This lack of meeting the materiality standards of 37 CFR 102(c)(2) (i) and (ii) does not permit the applicant to enjoy the benefit of advanced examination.

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 Ramesh Krishnamurthy at 571-272-4914, or to the undersigned 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 1724 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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JENKINS, WILSON & TAYLOR, P. A.
3100 TOWER BLVD
SUITE 1400
DURHAM, NC 27707

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OFFICE OF PETITIONS

In re Application of :
Apirux Bantukul, et al. :
Application No. 11/052,440 :
Filed: February 7, 2005 :
Attorney Docket No.: 1322/161/2 :
:

ON PETITION

This is a decision on the petition, filed September 29, 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 9, 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 2683 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : October 6, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Apirux Bantukul, et al.
Application No. : 11/052,440
Filed : February 7, 2005

The above-identified application has been assigned Patent No. 6,959,197 and an issue date of October 25, 2005.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 25, 2005:

> "All reference to Patent No. 6,959,197 to APIRUX BANTUKUL, ET AL. of NORTH CAROLINA for METHODS AND SYSTEMS FOR AUTOMATICALLY BYPASSING SHORT MESSAGE SERVICE CENTER FOR SHORT MESSAGE SERVICE (SMS) MESSAGES DESTINED FOR PREDETERMINED SHORT MESSAGE PEER-TO-PEER (SMPP) DESTINATIONS appearing in the Official Gazette of October 25, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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TAFT, STETTINIUS & HOLLISTER LLP
425 WALNUT STREET, SUITE 1800
CINCINNATI, OH 45202-3957

MAILED

APR 28 2009

OFFICE OF PETITIONS

In re Application of	:	
William A. ROGERS, et al.	:	
Application No. 11/052,455	:	DECISION GRANTING PETITION
Filed: February 7, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **VEL03-GN006**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 28, 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 April 16, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1797 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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Zhou et al.	:	
Application No.: 11/052473	:	ON PETITION
Filing or 371(c) Date: 02/08/2005	:	
Attorney Docket Number: 070386-0047	:	

This is a decision on the petition under 37 CFR 1.182, filed on April 26, 2007, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Xunwei Zhou
2. Randy G. Flatness

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

This application is being referred to Publishing Division for continued processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Nancy Johnson for

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/052,473	02/08/2005	2838	1630	070386-0047	10	4

CONFIRMATION NO. 9986

CORRECTED FILING RECEIPT

OC000000024796377

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Date Mailed: 07/12/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Xunwei Zhou, San Jose, CA;
Randy G. Flatness, Los Gatos, CA;

Power of Attorney: The patent practitioners associated with Customer Number **20277**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/052,473

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LIGHT LOAD CURRENT-MODE CONTROL FOR SWITCHED STEP UP-STEP DOWN REGULATORS

Preliminary Class

323

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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AUG 20 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Zhou, et al. :
Application No. 11/052,477 :
Filed: February 8, 2005 :
Attorney Docket No. 070386-0046 :

This is a decision on the petition under 37 CFR 1.182(a), filed April 26, 2007, to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

1. Xunwei Zhou
2. Randy G. Flatness

A corrected filing receipt is enclosed.

The application file is being directed to Technology Center 2800, GAU 2838 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

Enclosure: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/052,477	02/08/2005	2838	2930	070386-0046	44	6

CONFIRMATION NO. 9969

CORRECTED FILING RECEIPT

OC000000025452571

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Date Mailed: 08/20/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Xunwei Zhou, San Jose, CA;
Randy G. Flatness, Los Gatos, CA;

Power of Attorney: The patent practitioners associated with Customer Number **20277**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/052,477

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Variable frequency current-mode control for switched step up-step down regulators

Preliminary Class

323

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Application of	:	
Zhou, et al.	:	
Application No. 11/052,478	:	ON PETITION
Filed: February 8, 2005	:	
Attorney Docket No. 070386-0028	:	

This is a decision on the "Petition under 37 CFR 1.182" filed April 26, 2007.

The petition is **granted**.

The order of the names of the inventors has been changed to the following:

1. Xunwei Zhou
2. Randy G. Flatness

The application file is being forwarded to Technology Center 2800, GAU 2809 for processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/052,478	02/08/2005	2809	2030	070386-0028	26	6

CONFIRMATION NO. 9970

CORRECTED FILING RECEIPT

OC000000025207897

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Date Mailed: 08/06/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Xunwei Zhou, San Jose, CA;
Randy G. Flatness, Los Gatos, CA;

Power of Attorney: The patent practitioners associated with Customer Number **20277**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/052,478

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Protection for switched step up/step down regulators

Preliminary Class

323

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CHICAGO, IL 60606

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:
Sang Wook Ryu	:
Application No. 11/052,483	: DECISION ON PETITION
Filed: February 4, 2005	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 29936/40832	:

This is a decision on the petition, filed March 10, 2006, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Goddard, et al. :
Application No. 11/052;503 : DECISION ON PETITION
Filed: February 4, 2005 :
Attorney Docket No. P2931R1C4C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned November 17, 2007 for failure to timely submit a proper reply to the final Office action mailed August 16, 2007. The final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed March 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an RCE (including fee and submission); (2) the required petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050.00 extension of time fee submitted with the petition was subsequent to the maximum extendable period for reply, petitioner is entitled to a refund of this fee. A refund has been requested from the Finance Office, Refund Section.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply under 37 CFR 1.114.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: James A. Fox
Goodwin Procter LLP
135 Commonwealth Drive
Menlo Park CA 94025-1105

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Don Weber
235 Bristol
Troy, IL 62294

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JUL 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert Evan Hunter	:	
Application No. 11/052,509	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. 371	:	FROM RECORD
	:	

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 4, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Don W. Weber, the sole attorney of record.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Robert Hunter 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.

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert Hunter
221 Wrightsman
Virden, IL 62690

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MR. CALVIN MCINTOSH
BOX 42
GRAVELBOURG SK SOH 1XO CA CANADA

MAILED

JUN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Calvin C. MCINTOSH	:	
Application No. 11/052,511	:	DECISION ON PETITION
Filed: February 08, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, August 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of times under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 01, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (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 **(here almost three (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 01, 2006**. 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 Calvin C. Mcintosh was responsible for the application at the time of abandonment, Calvin C. Mcintosh 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 Calvin C. Mcintosh. 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), Calvin C. Mcintosh and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then responsible and having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made

clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (**here, almost three (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 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 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).

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 power of attorney filed by the inventor with the petition on May 11, 2009 as been accepted and made of record.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petition

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

DIEDERIKS & WHITELAW, PLC
12471 DILLINGHAM SQUARE
#301
WOODBRIDGE VA 22192

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Calvin C. MCINTOSH	:	**CORRECTED**
Application No. 11/052,511	:	DECISION ON PETITION
Filed: February 08, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, August 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of times under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 01, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (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 **(here almost three (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 01, 2006**. 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 Calvin C. Mcintosh was responsible for the application at the time of abandonment, Calvin C. Mcintosh 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 Calvin C. Mcintosh. 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), Calvin C. Mcintosh and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then responsible and having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned

application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay **(here, almost three (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 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 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).

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 power of attorney filed by the inventor with the petition on May 11, 2009 as been accepted and made of record.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petition

cc: **CALVIN C. MCINTOSH**
BOX 42
GRAVELBOURG, SK S0H 1X0,
CANADA

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

HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON PA 19034

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MAR 02 2010

In re Application of	:	
Calvin C. MCINTOSH	:	
Application No. 11/052,511	:	DECISION ON PETITION
Filed: February 08, 2005	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 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 final Office action mailed, August 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of times under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 01, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

The power of attorney filed by the applicant with the petition on August 31, 2009 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 3671 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.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE 01-07-09

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/052525 Patent No.: 7215904

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: The changes for column 4, lines 24 would not be consistent with figure 8. This change do not apply.

for

SPE DAVID GRAY **Art Unit** 2852

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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APR 30 2009

OFFICE OF PETITIONS

AT & T LEGAL DEPARTMENT - BHGL
ATTN: PATENT DOCKETING ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

In re Application of	:	
Robert Wesley Bossmeyer, et al.	:	
Application No. 11/052,526	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. 8285/723	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed January 13, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Scott W. Brim does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642. 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: DAVID A. FOX
CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103-3207

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Stoll, Andrew	:	
Application No. 11/052,533	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 2002082-0004	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 30, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the non-final Office action mailed October 18, 2005. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 19, 2006. A Notice of Abandonment was mailed June 28, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:
(1) the required reply,[1]
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.[2]

---

[1] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

[2] See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item (1). The petition states that a Reply to the Office Action was submitted concurrently. However, after a review of the application file, it does not appear that a reply was received. Petitioner should resubmit the reply, along with a renewed petition. A new petition fee is not required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:

U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana 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
www.uspto.gov

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Stoll, Andrew	:	
Application No. 11/052,533	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 2002082-0004	:	

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

This matter is being referred to Technology Center 1600 for further examination on the merits.

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

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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In re Application of	:	
Ronald N. Drake	:	
Application No. 11/052,580	:	DECISION ON PETITION
Filed: February 07, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. DRAK-001/01US	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(2)(i) & (ii), filed August 16, 2006, to make the above-identified application special based on the invention (a) materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and (b) materially contributing to certain categories related to energy resource as set forth in M.P.E.P. § 708.02, Section VI.

The petitions are **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition fails to show the invention meets the materiality standard. The instant invention is broadly directed to media separation. The purification of contaminated water does not in itself render the invention to be deemed materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state that special status is sought because the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. enhances the quality of the environment by

contributing to the restoration or maintenance of basic life-sustaining natural elements. If the application disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement under 37 CFR 1.102 by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The instant petition fails to meet the materiality standard of 37 CFR 1.102(c)(2)(ii). Although the statements in the petition pertaining to coal bed natural gas development may be generally directed to inventions relating to the development of energy sources when the instant invention is used/applied in certain applications, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to inventions relating to the reduction of energy consumption. The materiality standard does not permit the applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could materially contribute to category (A) or (B) as set forth above.

This lack of meeting the materiality standards of 37 CFR 1.102(c)(2) (i) and (ii) does not permit the applicant to enjoy the benefit of advanced examination.

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 Ramesh Krishnamurthy at 571-272-4914, or to the undersigned 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 1724 for action in its regular turn.

David Bucei
Petitions Examiner
Office of Petitions

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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NOV 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Ronald N. Drake	:	
Application No. 11/052,580	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. DRAK-001/01US/305502-2003	:	FROM RECORD

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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cooley Godward Kronish, LLP has been revoked by the assignee of the patent application on October 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NEUGEGOREN LAW FIRM, PC
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACPHERSON KWOK CHEN & HEID, LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
Seung-Hwan Moon	:	
Application No. 11/052,584	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. ABS-1720 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 1, 2006, to revive the above-identified application. The delay in responding is regretted.

The application became abandoned for failure to respond to the Notice to File Missing Parts of Non-Provisional Application mailed November 15, 2005. Accordingly, a Notice of Abandonment was mailed on July 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an executed oath/declaration and $130 surcharge for the late filing; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

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 $1,590 extension of time submitted with the petition was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.: 11/052,607	: PETITION DECISION
Filed: February 7, 2005	:
Attorney Docket No.: 1423-072	

This is in response to the petition under 37 CFR § 1.59(b), filed March 29, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 29, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JUL 20 2007

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Alexandria, VA 22313-1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 11/052,607	: PETITION DECISION
Filed: February 7, 2005	:
Attorney Docket No.: 1423-072	:

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

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2851 CHARLEVOIX DRIVE, S.E.
P.O. BOX 888695
GRAND RAPIDS MI 49588-8695

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OFFICE OF PETITIONS

In re Application of	:	
DeLine et al.	:	
Application No. 11/052,623	:	DECISION ON PETITION
Filed: 7 February, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DON01 P-1201	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed 10 February, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that

each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this decision on petition 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.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS MI 49546

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OFFICE OF PETITIONS

In re Application of	:
DeLine et al.	:
Application No. 11/052623	: DECISION ON PETITION
Filed: 02/07/2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DON01 P-1201	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 14 August, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: Customer Service Window
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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SUITE 207
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GRAND RAPIDS MI 49546

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OFFICE OF PETITIONS

In re Application of	:	
DeLine et al.	:	
Application No. 11/052623	:	DECISION ON PETITION
Filed: 02/07/2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DON01 P-1201	:	

This is a decision on the twice renewed petition under 37 CFR 1.78(a)(3), filed on December 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the

benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be 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 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 2615 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
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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
11/052,623	02/07/2005	2615	3950	DON01 P-1201	79	3

CONFIRMATION NO. 7022

CORRECTED FILING RECEIPT

28101
VAN DYKE, GARDNER, LINN & BURKHART, LLP
SUITE 207
2851 CHARLEVOIX DRIVE, S.E.
GRAND RAPIDS, MI 49546

OC000000027869719

Date Mailed: 02/05/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jonathan E. DeLine, Raleigh, NC;
Niall R. Lynam, Holland, MI;
Ralph A. Spooner, Holland, MI;
Phillip A. March, Holland, MI;

Assignment For Published Patent Application

Donnelly Corporation, Holland, MI

Power of Attorney:

Daniel Van Dyke--25046
Donald Gardner--25975
Frederick Burkhart--29288
Terence Linn--30283
Catherine Collins--37599
Anthony Bisulca--40913
Timothy Flory--42540
Matthew Goska--42594

Domestic Priority data as claimed by applicant

This application is a CIP of 10/190,809 07/08/2002 PAT 6,906,632
which is a CIP of 09/466,010 12/17/1999 PAT 6,420,975
which is a CIP of 09/396,179 09/14/1999 PAT 6,278,377
which is a CIP of 09/382,720 08/25/1999 PAT 6,243,003
and said 09/466,010 12/17/1999
is a CIP of 09/449,121 11/24/1999 PAT 6,428,172
and said 10/190,809 07/08/2002
is a CIP of 09/687,778 10/13/2000 PAT 6,547,133
which is a CON of 09/057,428 04/08/1998 PAT 6,158,655
and said 09/466,010 12/17/1999

is a CIP of 09/448,700 11/24/1999 PAT 6,329,925
and is a CIP of 09/433,467 11/04/1999 PAT 6,326,613

Foreign Applications

If Required, Foreign Filing License Granted: 03/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/052,623**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Digital sound processing system for a vehicle

Preliminary Class

381

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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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: William Myles Riley	: DECISION ON REQUEST FOR
Patent Number	: 7624733	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,627	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **788** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 11 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 11/052,628	: PETITION DECISION
Filed: February 7, 2005	:
Attorney Docket No.: 1423-071	

This is in response to the petition under 37 CFR § 1.59(b), filed April 19, 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 April 19, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

OCT 17 2007

In re Application of	:
Dennis L. Schultze	:
Serial No.: 11/052,628	: PETITION DECISION
Filed: February 7, 2005	:
Attorney Docket No.: 1423-071	:

This is in response to the petition under 37 CFR § 1.59(b), filed September 26, 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 April 19, 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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CHRISTOPHER E. CHALSEN
MILBANK, TWEED, HADLEY & McCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK, NY 10005-1413

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APR 23 2007
OFFICE OF PETITIONS

In re Application of	:
Yuuichi Kijima et al	:
Application No. 11/052,635	: DECISION ON PETITION
Filed: February 7, 2005	: UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 35061.06500	:

This is a decision on the petition, filed April 23, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b) stated to have been filed of even date.

The petition complies with the requirements of 37 CFR 1.313(c)(3). Accordingly, the application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Apr10\052635.wpd

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LAW OFFICES OF J.D. GERAIGERY, P.C.
56 CREIGHTON STREET
CAMBRIDGE MA 02140

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JAN 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey, Vernon Michael	:	
Application No. 11/052,638	:	DECISION ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 11217-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 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 a continuing application, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing Application No.11/999,767.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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Meyertons, Hood, Kivlin, Kowert, Goetzel/Symantec
P.O. Box 398
Austin, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Cuong Tran	: DECISION ON REQUEST FOR
Patent Number	: 7668962	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,644	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

Mail Date: 04/20/2010

Applicant	: Thomas Buch-Rasmussen	: DECISION ON REQUEST FOR
Patent Number	: 7666844	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,645	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **992** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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NOVO NORDISK, INC.
INTELLECTUAL PROPERTY DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

Mail Date: 05/17/2010

Applicant : Thomas Buch-Rasmussen
Patent Number : 7666844
Issue Date : 02/23/2010
Application No : 11/052,645
Filed : 02/07/2005

: 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 **1019** 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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Brooks & Cameron, PLLC
Suite 500
1221 Nicollet Avenue
Minneapolis, MN 55403

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OFFICE OF PETITIONS

In re Application of :
Hill, et al. :
Application No. 11/052,655 :
Filed: February 7, 2005 :
Attorney Docket No. 04-008US :

DECISION GRANTING PETITION

This is a decision on the petition filed June 27, 2005, to vacate the "Notice of Omitted Items in Nonprovisional Application (the "Notice").

The petition is **granted**.

On February 7, 2004, the above-identified application was filed. However, on April 28, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date, but that page 2 of the specification, appeared to have been omitted. The Notice set a two-month period for reply.

In response, on June 27, 2005, applicant filed the present petition, a copy of page 2 of the specification, and an Office date-stamped postcard receipt acknowledging receipt of 31 pages of specification, claims, and abstract, among other items.

Upon review of the record, page 2 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited February 7, 2005, included page 2 of the specification, and the Office subsequently misplaced page 2. Therefore, the application, including page 2 of the specification, was complete on filing and entitled to a filing date of February 7, 2005.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 7, 2005.

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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PATENT DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

Mail Date: 04/21/2010

Applicant	: Srinivasan N. Rao	: DECISION ON REQUEST FOR
Patent Number	: 7665127	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,677	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **941** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Keith D. Nowak
Dickstein, Shapiro, Morin & Oshinsky, LLP
41st Floor
1177 Avenue of the Americas
New York, NY 10036-2714

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MAY 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Alberto Spies	:	DECISION ON REQUEST
Application No. 11/052,697	:	TO WITHDRAW FROM
Filed: February 7, 2005	:	RECORD
Attorney Docket No. T5725.0004	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on June 16, 2005.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 CFR § 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 November 30, 2005.

Also, 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, "file transfer", do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Alberto Spies
1100 Warburton Avenue
Yonkers, NY 10701

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/25/2010

TO SPE OF : ART UNIT 2815 Parker Kenneth (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/052712 Patent No.: 7199470

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Kenneth Parker 2815

SPE — Art Unit

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WEST PALM BEACH FL 33402-3188

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Katherine Merlin	:	
Application No. 11/052,713	:	DECISION GRANTING PETITION
Filed: 31 January, 2005	:	
Atty Docket No. 1286-5-1	:	

This is a decision on the petition under 37 CFR 1.182, filed on 30 March, 2005, to change the sole named inventor's name.

The petition is **GRANTED**.

The name of the first inventor will be changed from "Kathy L. Shapiro" to -**Katherine Merlin**--.

Petitioner has presented a certified copy of a court order for name change.

Receipt of the court order reflecting the inventor's current name is acknowledged. The inventor's name has been corrected in Office records. A corrected Filing Receipt is enclosed for petitioner's records.

Counsel's deposit account, No. 50-0951, will be charged the petition fee of $400.00.

The application is being referred to Technology Center Art Unit 3673 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

Encl: Corrected Filing Receipt

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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/21/2010

Applicant	: Masafumi Yamasaki	: DECISION ON REQUEST FOR
Patent Number	: 7573525	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
Albritton, Ford D.	:	
Application No. 11/052,736	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. ALBR01-00002	:	

This is a decision on the petition filed May 9, 2005, requesting that the above-identified application be accorded a filing date of February 7, 2005, rather than the presently accorded date of February 8, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 7, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 507965207 US showing a handwritten "date-in", as well as a receipt stamp, of "February 7, 2005." The same Express Mail receipt number appears on the original "Transmittal for Patent Application," which includes the Express Mail label number. Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated February 7, 2005 on the cover page for the application papers. Additionally, applicant has submitted copy of the USPS Track & Confirm record showing that the package in question was accepted on February 7, 2005, at 5:01 p.m. in Dallas, TX.

In view of all of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on February 7, 2005.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require payment of a petition fee. Accordingly, the $400.00 fee submitted with instant petition will be credited to petitioner's deposit account as authorized.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 7, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 3700 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks for
Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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JAECKLE FLEISCHMANN & MUGEL, LLP
190 LINDEN OAKS
ROCHESTER NY 14625-2812

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MAY 11 2005

OFFICE OF PETITIONS

In re Application of	:
Cleveland, et al.	: DECISION GRANTING
Application No. 11/052,737	: PETITION
Filed: February 8, 2005	:
Attorney Docket No. 89843.025004	:
For: COMPACT GUN CABINET	

This is a decision on the petition filed February 28, 2005 (certificate of mailing date February 23, 2005) under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of February 7, 2005, rather than the presently accorded filing date of February 8, 2005.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on February 7, 2005, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV523251972US that shows a date-in of "2/4 05" and a postal date stamp of "FEB 7." The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was

deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed February 28, 2005 (certificate of mailing date February 23, 2005), is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **February 7, 2005** and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center Art Unit 3676 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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In re Patent No. 7,214,937	:	
Issue Date: May 8, 2007	:	
Application No. 11/052,809	:	ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. 1743-239	:	

This is a decision on the petition filed November 16, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

The application is being forwarded to Technology Center Art Unit 2881 for consideration of the Certificate of Correction in regard to requested changes to the specification.

Carl Friedman
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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AUG 01 2008

In re Patent No. 7,214,937	:	
Issue Date: May 8, 2007	:	
Application No. 11/052,809	:	ON PETITION
Filed: February 9, 2005	:	
Attorney Docket No. 1743-239	:	

This is a decision on the petition filed November 16, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The required $130 processing fee under § 1.17(i) for a petition under 37 CFR 3.81(b) has been charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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Whirlpool Patents Company- MD 0750
500 Renaissance Drive Suite 102
St. Joseph, MI 49085

Mail Date: 04/21/2010

Applicant	: Kristen K. Hedstrom	: DECISION ON REQUEST FOR
Patent Number	: 7610923	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1070** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Yoichi Mizuno	: DECISION ON REQUEST FOR
Patent Number	: 7615590	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **849** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

In re Application of
Sasaki et al.
Application No. 11/052,930
Filed: February 09, 2005
Attorney Docket No. 122074

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(d)

This is a decision on the petition under 37 CFR 1.102(d), filed August 17, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an 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.

Applicant has satisfied the provisions set forth in M.P.E.P. § 708.02, Section II and therefore the petition to make special is granted.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned 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 2853 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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In re Application of	:	
Takagi et al.	:	
Application No. 11/052,931	:	DECISION ON PETITION
Filed: February 09, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 122076	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed August 17, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and the filing of a petition accompanied by a statement by the applicant, assignee, or an 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.

Applicant has satisfied the provisions set forth in M.P.E.P. § 708.02, Section II and therefore the petition to make special is granted.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned 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 2853 for action on the merits commensurate with this decision.

David Bucel
Petitions Examiner
Office of Petitions

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3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056-6582

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OFFICE OF PETITIONS

In re Application of
Gray et al.
Application No. 11/052,939
Filed: February 8, 2005
Attorney Docket No. WEAT/0172.P1

ON PETITION

This is a decision on the petition filed April 25, 2005, requesting that the above-identified application be accorded a filing date of February 8, 2005, rather than the presently accorded date of February 7, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on February 8, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 335473596 US showing a handwritten "date-in" of "February 7, 2005," as well as a USPS stamp date of "February 8, 2005." The same Express Mail receipt number appears on the original "Patent Application Transmittal Letter." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated February 8, 2005 on the cover page for the application papers. Additionally, applicant has submitted a copy of the USPS receipt showing that the package in question was accepted on February 8, 2005, at 1:28 p.m.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 8, 2005. Accordingly, the instant application is entitled to a filing date of February 8, 2005, and has been so accorded.

A petition under 37 CFR 1.10(d) does not require a petition fee. Accordingly, the $130.00 petition fee collected will be credited to petitioner's deposit account.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 8, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks for
Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of
Toyonori Sasaki et al
Application No. 11/052,957
Filed: February 9, 2005
Attorney Docket No. 122075

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 18, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2861 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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60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of Patzschke, et al. Application No. 11/052,970 Filed: February 7, 2005 Attorney Docket No. 16766.1.1 For: SYSTEMS AND METHODS FOR TESTING THE LOAD OF AT LEAST ONE IP-SUPPORTED DEVICE	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 5, 2006, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed March 11, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on May 12, 2005. A Notice of Abandonment was mailed on November 15, 2005.

Applicants have submitted a proper reply to the March 11, 2005 Notice in the form of an executed declaration and a surcharge for its late filing, an acceptable statement of the unintentional nature of the delay in responding to the March 11, 2005 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

OIPE IAP66
NOV 2 8 2005
PATENT & TRADEMARK OFFICE

Docket No.: 112903.142 US2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OFFICE

In re Application of: Gozdz et al.

Serial No.: 11/052,971 Group Art Unit: 1745

Filed: February 7, 2005 Examiner: TBA

Title: **LITHIUM SECONDARY CELL WITH HIGH CHARGE AND DISCHARGE RATE CAPABILITY**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL

Applicants request that this application be made special and taken out of order on the grounds that this invention will "materially...enhance the quality of the environment." 37 C.F.R. §1.102(c)(2)(i). MPEP Section 708.02 V. Environmental Quality. provides that the U.S. Patent Office will accord special status to all patent applications that materially enhance the quality of the environment by contributing to the restoration or maintenance of the basic life-sustaining natural elements such as air, water or soil.

Alternatively, Applicants request that this application be made special and taken out of order on the grounds that this invention will "materially...contribute to the development or conservation of energy resources." 37 C.F.R. §1.102(c)(2)(ii). MPEP Section 708.02 V. Energy. provides that the U.S. Patent Office will accord special status to all patent applications that materially contribute to the discovery or development of energy resources or the more efficient utilization and conservation of energy resources.

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

US1DOCS 5324632v1

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500 Renaissance Drive, Suite 102
St. Joseph, MI 49085

Mail Date: 04/21/2010

Applicant	: Kristen K. Hedstrom	: DECISION ON REQUEST FOR
Patent Number	: 7621284	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/052,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JONATHAN SPANGLER
NU VASIVE, INC.
4545 TOWNE CENTRE COURT
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of
AHLGREN, Dan K.
Application No. 11/053,016
Filed: February 8, 2005
Attorney Docket No. 050US2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 23, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $395, and the submission required by 37 CFR 1.114; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center Art Unit 3733 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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DOUGLAS S. FOOTE
INTELLECTUAL PROPERTY SECTION
NCR CORPORATION
1700 SOUTH PATTERSON BLVD.
DAYTON OH 45479-0001

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Application of
Maria Babilon et al.
Application No. 11/053,023
Filed: February 8, 2005
Attorney Docket No: 11724

ON PETITION

This is a decision on the petition filed March 30, 2010 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed March 16, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned June 17, 2009. Accordingly, a Notice of Abandonment was mailed October 22, 2009.

This matter is being referred to Technology Center 2448 for appropriate action on the amendment filed March 30, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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)).

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Richard R. Jucha	: DECISION ON REQUEST FOR
Patent Number	: 7575217	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,034	: OF WYETH
Filed	: 02/08/2005	:
		:

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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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Alice Shen Cha	: DECISION ON REQUEST FOR
Patent Number	: 7655267	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **978** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	: Tony Hardie	: DECISION ON REQUEST FOR
Patent Number	: 7640485	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **938** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

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APR 24 2006

OFFICE OF PETITIONS

In re Application of:	:	
Evanicky et al.	:	
Application No. 11/053,068	:	DECISION DISMISSING
Filed: February 7, 2005	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47
COMPACT FLAT PANEL COLOR	:	
CALIBRATION SYSTEM	:	

This is in response to the petition filed February 7, 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 AS MOOT.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 10/013,576, filed December 10, 2001, of which the instant filing is a continuation application.

Furthermore, a copy of the decision, mailed September 12, 2002, granting a petition to accord § 1.47(a) status to the prior application has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status. No petition is necessary to accord Rule 1.47(a) status in this application.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this continuation application.

Because this is an image file wrapper ("IFW") file, an

electronic message will be forwarded to Technology Center 2629 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney Advisor
Office of Petitions

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Bozicevic, Field & Francis, LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Peter S. Lu et al.	:	
Application No. 11/053,076	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. 532622010300	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 10, 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 S. Keddie and all attorneys/agents of record has been revoked by the assignee of the patent application on September 1, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Wilson Sonsini Goodrich & Rosati
650 Page Mill Road
Palo Alto, CA 94304-1050

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TYCO HEALTHCARE GROUP LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

MAILED

SEP 25 2009

OFFICE OF PETITIONS

In re Application of
Patrick K. CAMPBELL, et al.
Application No. 11/053,084
Filed: February 8, 2005
Attorney Docket No. **1603-15**

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 August 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue/publication fees on or before August 18, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed May 18, 2009. Accordingly, the date of abandonment of this application is August 19, 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 publication fee of $300, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **CHRISTOPHER G. TRAINOR**
445 BROAD HOLLOW ROAD, SUITE 420
MELVILLE, NY 11747

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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

Applicant	: Patrick Kenneth Campbell	: DECISION ON REQUEST FOR
Patent Number	: 7611494	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **443** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/22/2010

Applicant	: Srinivasan Surendran	: DECISION ON REQUEST FOR
Patent Number	: 7627113	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,099	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1284** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

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OCT 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Yvonne Song Lin	:	
Application No. 11/053,114	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 9754-035-999	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed April 5, 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 3781 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

IFW

ICEMILLER LLP
LEGAL COUNSEL

June 16, 2006

WRITER'S DIRECT NUMBER: (317) 236-2472
DIRECT FAX: (317) 592-4665
INTERNET: Doreen.Gridley@icemiller.com

OIPE IAP69 JUN 19 2006 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I hereby certify that Express Mail package is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date specified below.

06-16-2006
Date of Deposit

LISA A. HOOD
Typed or Printed Name of Person Signing this Certificate

Lisa A. Hood
Signature

06-16-2006
Date of Signature

MAIL STOP PETITION

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Re: **Invention:** SUPEROXYGENATION OF RAW WASTEWATER FOR ODOR/CORROSION CONTROL
Inventor: SPEECE, Richard E.
Serial No.: 11/053,124
Filed: February 8, 2005
Art Unit: 1724 - Savage, M
Our File No.: P00891-US-01 (17884.0002)

PETITION TO MAKE SPECIAL BECAUSE OF INVENTOR'S AGE

Dear Sir/Madam:

Applicants hereby petition that the above-referenced application be made special in accordance with 37 C.F.R. §1.102(c) by reason of the inventor's age. Specifically, Dr. Richard E. Speece is over 65 years of age.

As a showing of this fact, enclosed please find an Affidavit executed by Dr. Richard E. Speece and a copy of his birth certificate. These documents demonstrate that Dr. Richard E. Speece is over the age of 65.

OCT 3 2006

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

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KIRKPATRICK & LOCKJHART PRESTON GATES ELLIS LLP
(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	:	
Paul A. Magnin et al	:	
Application No. 11/053,141	:	DECISION ON PETITION
Filed: February 8, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. N0019/7000	:	

This is a decision on the petition, filed June 25, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 25, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country..

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 24, 2008 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center Art Unit 4153 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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United States Patent and Trademark Office
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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
11/053,141	02/08/2005	Paul A. Magnin	N0019/7000

CONFIRMATION NO. 6430

22832
Kirkpatrick & Lockhart Preston Gates Ellis LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON, MA 02111-2950

NONPUBLICATION RESCISSION LETTER

OC000000027707616

Date Mailed: 01/15/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 04/24/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. 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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEYDIG, VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 N. STETSON
CHICAGO, IL 60601-6731

MAILED

JUN 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Paul A. MAGNIN, et *al.*	:	
Application No. 11/053,141	:	DECISION ON PETITION
Filed: February 8, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **263790**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 30, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 1, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks items (1) and (3) above.

Turning first to item (3) above, the statement of unintentional delay is not considered at this time to be a properly submitted statement. In this regard, the petition containing the statement of unintentional delay is signed by Greg Webb, who is an attorney representing the assignee of the above-identified application. Petitioner's attention is directed to 37 CFR 1.33(b), which states.

> *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (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 applicant.

Therefore, as the petition containing the statement of unintentional delay is not signed by all the inventors and/or the record herein fails to disclose that petitioner herein (Mr. Webb) was ever given a power of attorney to act on behalf of the other inventors, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay. **As it appears that Mr. Webb is signing on behalf of an assignee, compliance with 37 CFR 3.73(b) must be satisfied**. In this regard, 37 CFR 3.73(b) provides:

> (1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:
>
> (i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment * * * For patent matters only, the submission of the documentary evidence must be accompanied by 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).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, *e.g.*, an officer of the assignee.

(c) For patent matters only:

(1) Establishment of ownership by the assignee must be submitted prior to, or at the same time as, the paper requesting or taking action is submitted.

(2) If the submission under this section is by an assignee of less than the entire right, title and interest, such assignee must indicate the extent (by percentage) of its ownership interest, or the Office may refuse to accept the submission as an establishment of ownership.

In view of the above, and as it appears that Mr. Webb is signing the statement of unintentional delay as a representative of the assignee, then compliance with 37 CFR 3.73(b) must be satisfied. A blank certificate under 37 CFR 3.73(b) is enclosed with this decision for petitioner's convenience.

As to item (1) above, the reply is considered defective also for the reasons stated above (that the paper (reply) must be signed by a proper party; *i.e.*, all the inventors or an assignee of the entire interest and, if signed by an assignee of the entire interest, must satisfy the provisions of 37 CFR 3.73(b).

In sum, petitioner must submit a petition containing a statement of unintentional delay and reply (amendment) signed by all the inventors, **unless** petitioner herein is the assignee of the entire right, title and interest in the instant application, then compliance with 37 CFR 3.73(b) must be satisfied, which can be accomplished by completion of the enclosed certificate under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Thurman K Page

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **GREG WEBB**
HAYNES AND BOONE, LLP
2323 VICTORY AVENUE, SUITE 700
DALLAS, TX 75219

Enclosure: **Certificate under 37 CFR 3.73(b) and Privacy Act Statement**

PTO/SB/96 (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.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BEAVERTON OR 97077-0001

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JUL 3 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven w. Stanton et al.	:	
Application No. 11/053,156	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 7766US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 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 rejection, mailed December 19, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 27 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 20, 2009.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of amendment; (2) the petition fee of $1620; 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.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of Business o the reply received.

Telephone inquiries concerning this decision should be directed to Newton Edwards at (571) 272-6052 or in his absence to the undersigned at 571-272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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LAW OFFICE OF MONICA H CHOI
P O BOX 3424
DUBLIN OH 43016-0204

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Il-Kwon Chang et al :
Application No. 11/053,158 : DECISION ON PETITION
Filed: February 7, 2005 :
Attorney Docket No. S05-04 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 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 May 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 13, 2007. Accordingly, the date of abandonment of this application is May 15, 2007. A Notice of Abandonment was mailed on June 7, 2007, subsequent to the filing of the instant petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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

JORDAN AND HAMBURG LLP
122 EAST 42ND STREET
SUITE 4000
NEW YORK NY 10168

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JUN 21 2007
OFFICE OF PETITIONS

In re Application of :
Shin, et al. : DECISION ON PETITION
Application No. 11/053,166 :
Filed: February 7, 2005 :
For: F-8562 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 15, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned June 11, 2006 for failure to timely reply to the final Office action mailed March 10, 2006. The Office action set a three month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. Notice of Abandonment was mailed November 13, 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 fails to satisfy requirement (1) set forth above. Petitioner has failed to submit a proper reply to the

Office action. The examiner of record has deemed that the amendment submitted with the instant petition fails to place the application in condition for allowance. Any renewed petition must include a proper reply to the outstanding Office action. The reply may consist of an amendment that *prima facie* places the application in condition for allowance; a request for continued examination; a notice of appeal, or a continuation 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: (51) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: PTOL-303

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/053,166	Applicant(s) SHIN ET AL.	
	Examiner John D. Walters	Art Unit 3618	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 5-9.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant states, "...Applicant invites the Examiner to identify which paragraphs in any of the cited references which teach a golf bag having wheels that are horizontally positionable by vertical movement of a handle that protrudes from the top of the golf bag."

It is unclear why Applicant would think that any single reference used within a 35 U.S.C. 103 rejection would contain all of the limitations of an independent claim. If one reference contained all limitations said claim would be rejected under 35 U.S.C. 102.

Applicant also states, "...the Examiner must either provide proof that such features are known or the Examiner must allow the claims. The proof must be in the form of references which teach not only the position asserted by the Examiner but also the suggestion or motivation to combine the references to provide the claimed invention."

Applicant is misrepresenting the requirements of 35 U.S.C. 103. See MPEP 2143.01: "The teaching, suggestion, or motivation must be found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." Applicant will note that motivation can come from knowledge available to one of ordinary skill in the art. Applicant is not asserting that the motivation provided is faulty, but is arguing the mistaken assumption that such motivation must come directly from the prior art references. This is simply not the case.

For these reasons, the rejections stand.

JDW

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FOLEY HOAG, LLP
PATENT GROUP (W/HUV HMV)
155 SEAPORT BLVD.
BOSTON MA 02210-2600

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
SINCLAIR, et al.	:	
Application No. 11/053,185	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. **HMV-085.01**	:	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 29, 2008.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Gregory J. Sieczkiewicz on behalf of all attorneys 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 as it 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 29, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID A. SINCLAIR**
8 PRESTON ROAD
WEST ROXBURY, MA 02132

cc: **JOHN R. VAN AMSTERDAM**
WOLF GREENFIELD & SACKS, PC
600 ATLANTIC AVENUE
BOSTON, MA 02210

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

JUL 06 2010

OFFICE OF PETITIONS

In re Application :
Huizinga, et al. :
Application No. 11/053,199 : PATENT TERM ADJUSTMENT
Filed: February 7, 2005 :
Dkt. No.: A0848.70052US00 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(B)," filed March 2, 2010.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 637 days, not 182 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent 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.

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].

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

However, 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 application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

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JUN 0 9 2008

In re Application of	:	
TJERRILD, James W.	:	
Application No. 11/053,216	:	DECISION ON PETITION
Filed: February 08, 2005	:	TO WITHDRAW
Attorney Docket No. **PDI 1001-1**	:	FROM RECORD
	:	

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, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (representation of applicant has been terminated), does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **POTENTIAL DESIGN, INC.**
DBA FOOD GRADE STRUT
4185 E. JEFFERSON AVENUE
FRESNO, CA 93725

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY CA 94019

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NOV 10 2008

In re Application of	:	
TJERRILD, James W.	:	
Application No. 11/053,216	:	DECISION ON PETITION
Filed: February 08, 2005	:	TO WITHDRAW
Attorney Docket No. **PDI 1001-1**	:	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 September 29, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by James F. Hann on behalf of all attorneys of record who are associated with customer No. 22470. 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 James W. Tjerrild at the address indicated below.

There is an outstanding Office action mailed June 30, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JAMES W. TJERRILD**
4185 E. JEFFERSON AVE.
FRESNO, CA 93725

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February 21, 2007

Patent No. : 7,083,667 B2
Ser. No. : 11/053267
Inventor(s) : Murai, et al.
Issued : August 1, 2006
Title : **COLORANT COMPOUND, INK, INK TANK, RECORDING APPARATUS AND RECORDING PROCESS**
Docket No. : 03500.109595

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.

In the Title, it is the practice to exclude words such as "Improvements in", "New", etc., from the printed patent.

In view of the foregoing, your request is hereby denied.

Elisha Evans
For Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

CBN/eme

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CIERRA, INC/TOWNSEND TOWNSEND & CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 15 2008

In re Application of	:	
GIFFORD, et al.	:	
Application No. 11/053,274	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. 022128-000410US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 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 Douglas Partnow 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 as it is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

CC: HANSON GIFFORD, III
3180 WOODSIDE ROAD
WOODSIDE, CA 94062

CC: TAKAHIRO MIURA
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

Mark P. Levy, Esq.
Thompson Hine LLP
2000 Courthouse Plaza NE
10 W. Second Street
Dayton OH 45402-1758

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of Richard E. Wronski et al. Application No. 11/053,275 Filed: February 8, 2005 Attorney Docket No. 100041-41247 Title: APPARATUS AND METHOD FOR MOVING ENVELOPES	DECISION ON PETITION UNDER 37 C.F.R. § 1.181(A)

BACKGROUND

This is a decision on the "Request to Consider Correspondence Never Received as Timely Filed in Accordance with Certificate of Mailing (37 C.F.R. § 1.8(b))," filed on October 18, 2006, which is properly treated as a petition pursuant to 37 C.F.R. § 1.181(a).

The Office regrets the period of delay in issuing this decision.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.8 sets forth, *in pertinent part*:

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
> (1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and
(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

37 C.F.R. § 1.137(f) sets forth, *in toto*:

Abandonment for failure to notify the Office of a foreign filing: A nonprovisional application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing, may be revived only pursuant to paragraph (b) of this section. The reply requirement of paragraph (c) of this section is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under this section will not operate to stay any period for reply that may be running against the application.

ANALYSIS

The present application was filed on February 8, 2005. Petitioner has asserted that on January 25, 2006, he mailed a Rescission of Previous Non-Publication Request to the Office.

Petitioner has included a copy of the Rescission of Previous Non-Publication Request, along with a statement that attests on a personal knowledge basis to the previous timely mailing, and it is noted that the Rescission of Previous Non-Publication Request contains a certificate of mailing dated January 25, 2006.

The electronic file has been reviewed, and a copy of this communication has not been located.

Petitioner has requested that the Rescission of Previous Non-Publication Request be considered timely filed. As such, it appears that the present application is the subject of an application that was filed in either a foreign or an international application, and as such, the timely notification of the same was required to prevent the abandonment of the present application by operation of law.

The present petition cannot be granted, for the following two reasons:

- The electronic file has been reviewed, and notification of the filing of the subject of the present application in either a foreign or an international application has not been located, and;
- Petitioner has not revealed when the foreign or international application was filed, and as such, it cannot be determined whether the Rescission of Previous Non-Publication Request of January 25, 2006 was timely filed.

It appears that Petitioner might be referring to international application PCT/US06/02732, which was filed on January 25, 2006, and claims priority to the present application. If this is the case, then the filing of the Rescission of Previous Non-Publication Request was made within forty-five days after the date of the international filing. However, it does not appear that notice was provided to the Office of said filing. If notice was not provided, notification, along with a petition pursuant to 37 C.F.R. § 1.137(f) and the associated fee will be required.

It follows that the present petition must be **DISMISSED.**

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.181(a)" and/or "Petition Under 37 C.F.R. § 1.137(f)." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[4].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Mark P. Levy, Esq.
Thompson Hine LLP
2000 Courthouse Plaza NE
10 W. Second Street
Dayton OH 45402-1758

COPY MAILED

JUN 09 2008

In re Application of	:	
Richard E. Wronski et al.	:	
Application No. 11/053,275	:	
Filed: February 8, 2005	:	DECISION ON RENEWED PETITION
Attorney Docket No. 100041-41247	:	PURSUANT TO 37 C.F.R. § 1.181(A)
Title: APPARATUS AND METHOD FOR MOVING ENVELOPES	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a), filed on November 12, 2007.

This renewed petition is **GRANTED**.

RELEVANT PORTIONS OF THE C.F.R.

37 C.F.R. § 1.8 sets forth, *in pertinent part*:

> (a) Except in the situations enumerated in paragraph (a)(2) of this section or as otherwise expressly excluded in this chapter, correspondence required to be filed in the U.S. Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.
> (1) Correspondence will be considered as being timely filed if:
> (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:
> (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or
> (B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

...

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
(2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
(3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
(c) The Office may require additional evidence to determine if the correspondence was timely filed.

37 C.F.R. § 1.137(f) sets forth, *in toto*:

Abandonment for failure to notify the Office of a foreign filing: A nonprovisional application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing, may be revived only pursuant to paragraph (b) of this section. The reply requirement of paragraph (c) of this section is met by the notification of such filing in a foreign country or under a multinational treaty, but the filing of a petition under this section will not operate to stay any period for reply that may be running against the application.

ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on October 18, 2006, and was dismissed via the mailing of a decision on September 12, 2007. The decision on the original petition set forth, *in pertinent part*:

> Petitioner has asserted that on January 25, 2006, he mailed a Rescission of Previous Non-Publication Request to the Office.
>
> Petitioner has included a copy of the Rescission of Previous Non-Publication Request, along with a statement that attests on a personal knowledge basis to the previous timely mailing, and it is noted that the Rescission of Previous Non-Publication Request contains a certificate of mailing dated January 25, 2006.
>
> The electronic file has been reviewed, and a copy of this communication has not been located.
>
> Petitioner has requested that the Rescission of Previous Non-Publication Request be considered timely filed. As such, it appears that the present application is the subject of an application that was filed in either a foreign or an international application, and as such, the timely notification of the same was required to prevent the abandonment of the present application by operation of law.

With this renewed petition, Petitioner has submitted arguments that have been deemed to be persuasive.

The Rescission of Previous Nonpublication Request and Notice of Foreign Filing, received in the Office on October 18, 2006 and originally submitted on January 25, 2006, will be considered timely filed.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the present application can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

MEADWESTVACO CORPORATION
ATTN: IP LEGAL DEPARTMENT
1021 MAIN CAMPUS DRIVE
RALEIGH, NC 27606

Mail Date: 05/27/2010

Applicant	: Richard E. Wronski	: DECISION ON REQUEST FOR
Patent Number	: 7637711	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/053,275	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Raymond M. Galasso
Galasso & Associates LP
115 Wild Basin Road, Suite 107
Austin TX 78746

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of :

PARSONS, Patrice A. :
Application No. 11/053,305 :
Filed: February 8, 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 October 9, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Raymond M. Galasso on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Patrice A. Parsons 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: **PATRICE A. PARSONS**
269 S. BEVERLY DRIVE, SUITE 670
BEVERLY HILLS, CA 90212

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

OPPEDAHL PATENT LAW FIRM LLC-VAI
P.O. BOX 4850
FRISCO, CA 80443-4850

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul WATERHOUSE, et al	:	
Application No. 11/053,307	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. VAI.P-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 September 18, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Oppedahl Patent Law Firm LLC, has been revoked by the applicant of the patent application on October 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: VISIBLE ASSETS INC.
2820 ARGENTIA ROAD, UNIT 1
MISSISSAUGA, ONT L5N 8G4
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OCT 13 2005
TECHNOLOGY CENTER 3600

Litman Law Offices, LTD
P.O. Box 15035
Crystal City Station
Arlington, VA 22215

In re application of
Samuel M. Thomas, Jr.
Application No. 11/053,331
Filed: February 9, 2005
For: EXTENDIBLE BUILDING POST

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on February 9, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Samuel M. Thomas, Jr. indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Domer
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 10/3/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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James W. Hiney, Esq.
P. O. Box 818
Middleburg VA 23060

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of :
JADA KELLY :
Application No. 11/053,340 : DECISION ON PETITION
Filed: 02/08/2005 :
Title: POST SURGICAL PANT SYSTEM :

This is a decision on the petition under 37 CFR 1.181, filed June 6, 2007, to withdraw the holding of abandonment.

On September 29, 2006, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. Extensions of time for response were available under 37 CFR 1.136(a). On February 15, 2007, petitioner submitted a notice of appeal, a request for an extension of time for response within the first month, and the requisite fees. On June 1, 2007, the Office mailed a Notice of Abandonment for failure to file a timely reply to the final Office action.

As stated above, the final Office action of September 29, 2006, set a three-month shortened statutory period to reply. Accordingly, petitioner was required to file a reply within the three-month shortened statutory period (on or before December 29, 2006) or within the extendable period pursuant to 37 CFR 1.136(a) (on or before March 29, 2007). Petitioner filed a notice of appeal and a request for an extension of time for response within the first month on February 15, 2007. Therefore, petitioner was required to file a reply to the final Office action on or before January 29, 2007. As petitioner did not file a reply within that period or obtain any further extensions of time, the application became abandoned January 30, 2007.

The Office does not dispute that petitioner filed a notice of appeal on February 15, 2007. However, the response was not timely filed on or before January 29, 2007 (within the one-month extended period). As a response was not timely filed, the application was properly held abandoned. Accordingly, the petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Extensions of time are permitted under 37 CFR 1.136(a). In the alternative, petitioner may wish to file a 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 FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By EFS-WEB	Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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

WINSLOW, Charles J. et al.
Application No. 11/053,346
Filed: February 08, 2005
Attorney Docket No. **19433A-005150US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 09, 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 Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CHARLES J. WINSLOW**
25 HILTON COURT
WALNUT CREEK, CALIFORNIA 94595

cc: **DAVID L. MCCOMBS**
HAYNES AND BOONE, LLP
2505 N. PLANO ROAD
SUITE 4000
RICHARDSON, TX 75082

JC87 JUN 0 3 2005 PATENT & TRADEMARK OFFICE

OBLON
SPIVAK
McCLELLAND
MAIER
&
NEUSTADT
P.C.

ATTORNEYS AT LAW

Docket No.: 265608US0DIV

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: Application Serial No.: 11/053,371
Applicants: Naoki HAYASHIDA, et al.
Filing Date: February 9, 2005
For: ARTIFICIAL FINGER PRINT LIQUID, TESTING METHOD FOR OPTICAL INFORMATION MEDIUM USING IT, AND OPTICAL INFORMATION MEDIUM
Group Art Unit: ~~2655~~ 1794
Examiner: Unassigned Mulvaney. E

SIR:

Attached hereto for filing are the following papers:

Petition to Make Special Under MPEP §708.02 (VIII)

Our credit card payment form in the amount of **$130.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Norman F. Oblon
Registration No. 24,618
James J. Kulbaski
Registration No. 34,648
Scott A. McKeown
Registration No. 42,866

Customer Number
22850
(703) 413-3000 (phone)
(703) 413-2220 (fax)

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700
JUN 30 2005

1940 DUKE STREET ALEXANDRIA, VIRGINIA 22314 U.S.A.
TELEPHONE: 703-413-3000 FACSIMILE: 703-413-2220 WWW.OBLON.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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C. IRVIN McCLELLAND
OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Naoki Hayashida et al	:
Application No. 11/053,371	: DECISION GRANTING PETITION
Filed: February 9, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 265608USODIV	:

This is a decision on the petition, filed September 8, 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 June 29, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 1774 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\Sept9\053371.wpd

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/053,372	02/09/2005	Yoshikazu Ogura	265646US26	5168

7590 07/22/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CHUO, TONY SHENG HSIANG

ART UNIT	PAPER NUMBER
1795	

NOTIFICATION DATE	DELIVERY MODE
07/22/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
07/21/2008 0030058700

Credit Card Refund Total: $500.00

Am Exp..: XXXXXXXXXXX1007

Adjustment date: 07/21/2008 NFARMER
02/11/2005 AADOFO1 00000084 11053372
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/053,386	02/07/2005	Patrick Bozeman	14917.0458USU1	8098

27488 7590 12/27/2007
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
NGUYEN, KIM T

ART UNIT	PAPER NUMBER
2163	

MAIL DATE	DELIVERY MODE
12/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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DEC 27 2007

TECHNOLOGY CENTER 2100

Timothy B. Scull
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Patrick BOZEMAN et al.
Appl. No.: 11/053,386
Filed: February 7, 2005
For: SYSTEMS AND METHODS FOR DETERMINING TARGET FAILBACK AND TARGET PRIORITY FOR A DISTRIBUTED FILE SYSTEM

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 11 December 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 11 December 2007 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 11 December 2007 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/053,386	02/07/2005	Patrick Bozeman	14917.0458USU1	8098

27488 7590 07/28/2009
MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER
NGUYEN, KIM T

ART UNIT	PAPER NUMBER
2163	

MAIL DATE	DELIVERY MODE
07/28/2009	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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Rene A. Pereyra
Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of: David B. CROSS et al. Appl. No.: 11/611,051 Filed: December 14, 2006 For: DERIVING A SYMMETRIC KEY FROM AN ASYMMETRIC KEY FOR FILE ENCRYPTION OR DECRYPTION	DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the renewed petition under 37 CFR 1.59(b), filed on 13 May 2009 to expunge information submitted pursuant to MPEP § 724.05.

The petition is **GRANTED**.

Petitioner requests that the documents in a sealed envelop submitted on 11 December 2007 be expunged from the record. Petitioner states that the materials are proprietary subject. The petition fee set forth in 37 CFR 1.17(g) has been paid.

Applicant is required to retain the expunged documents for the life of any patent, which issues on the above-identified application.

The expunged documents have been removed from the official file and will be forwarded to the shred room to be shredded. The petition and support documents have been closed from public view.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

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JJGJR.: 06-06

Paper No: __

O'MALLEY AND FIRESTONE
919 SOUTH HARRISON STREET
SUITE 210
FORT WAYNE IN 46802

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JUL 1 0 2006
OFFICE OF PETITIONS

In re Application of	:	
Jensen, et al.	:	
Application No. 11/053,397	:	DECISION ON PETITION
Receipt/Filing Date: 31 March, 2005	:	
Attorney Docket No. JENES-04003	:	

This is a decision on the petition filed on 31 March, 2005, and considered herein under 37 C.F.R. §1.53 to obtain a filing date consistent with the submission of the replacement drawings.

The Office regrets the delay in addressing this matter, however, it is noted that: this matter was received by the Attorneys in the Office of Petitions only at this writing;

NOTE:

There is no indication that Petitioner has sought to file with the Office a Status Inquiry since the filing of the instant petition, and 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).

The instant petition is **GRANTED**.

BACKGROUND

The instant application was deposited on 8 February, 2005.

On 11 March, 2005, the Office of Initial Patent Examination (OIPE) mailed a a Notice of Omitted Items indicated that, while the application had been accorded a filing date, it appeared that Figs. 6(a - c), as described in the specification, had been omitted on deposit. OIPE indicated that Petitioner might: contend via petition (with a copy of the item(s)) that the omitted item(s) had been submitted and Petitioner might file a petition under 37 C.F.R. §1.182 (considered under 37 C.F.R. §1.53) as to that contention; submit the omitted item and accept the date of submission as the filing date, or accept the application in the form the Office indicated it had been received. And OIPE set a two- (2-) month period for reply;

Petitioner filed the instant petition on 31 March, 2005, with, *inter alia*, a statement that incorrect drawings had been submitted on deposit and that new drawings were being submitted with a supplemental oath/declaration and the date of that submission was sought as the filing date of the instant application.

ANALYSIS

A search of the official file reveals that:

- on 8 February, 2005, Petitioner deposited the instant application;
- Petitioner acknowledges submission of incorrect drawings;
- on 31 March, 2005, Petitioner submitted replacement drawings (to wit: Figs. 1 - 6(a - c), as described in the specification), a supplemental oath/declaration, and a request of a filing date contemporaneous with that submission.

Accordingly, the application, including Figs. 1 - 6(a - c), as described in the specification, are entitled to a filing date of 31 March, 2005.

The Notice mailed on 11 March, 2005, was not sent in error and will not be disturbed.

CONCLUSION

The petition for the filing date of submission of the replacement drawings is **granted** and the petition fee is not waived because the error was not that of the Office.

This application is released to OIPE for further processing with a filing date of 31 March, 2005, for the entire application with pages 1 - 10 of the specification (description, claims

and abstract) and six sheets of drawings Figs. 1 - 6(a - c), as described in the specification, using:

- **pages 1 - 10 of the specification (description, claims and abstract), deposited on 8 February, 2005; and**
- **and six sheets of drawings Figs. 1 - 6(a - c), as described in the specification, deposited on 31 March, 2005; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 31 March, 2005, and reflecting therein that 10 pages of the specification (description, claims and abstract) and 6 sheets of drawings (Figs. 1-6(a - c)), as described in the specification, were present on filing.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

O'MALLEY AND FIRESTONE
919 SOUTH HARRISON STREET
SUITE 210
FORT WAYNE IN 46802

In re Application of	:	
Jensen, et al.	:	
Application No. 11/053,397	:	DECISION GRANTING PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. JENES-04003	:	

This is a decision on the petition, filed October 1, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 24, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

This application is being forwarded to Technology Center Art Unit 2885 for examination in due course.

Kenya A. McLaughlin
Petitions Attorney
Office of Petition

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
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,397	03/31/2005	Bradford B. Jensen	JENES-04003

CONFIRMATION NO. 8049

28270
O'MALLEY AND FIRESTONE
919 SOUTH HARRISON STREET
SUITE 210
FORT WAYNE, IN 46802

NONPUBLICATION RESCISSION LETTER

OC000000027400824

Date Mailed: 12/20/2007

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 03/27/2008.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. 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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EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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DEC 03 2007

OFFICE OF PETITIONS

In re Application of	:	
WINSLOW, Charles J. et al.	:	
Application No. 11/053,399	:	DECISION ON PETITION
Filed: February 08, 2005	:	TO WITHDRAW
Attorney Docket No. **19433A-005110US**	:	FROM RECORD

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 09, 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 Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CHARLES J. WINSLOW**
25 HILTON COURT
WALNUT CREEK, CALIFORNIA 94595

cc: **DAVID L. MCCOMBS**
HAYNES AND BOONE, LLP
2505 N. PLANO ROAD
SUITE 4000
RICHARDSON, TX 75082

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United States Patent and Trademark Office
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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: Charles J. Winslow	: DECISION ON REQUEST FOR
Patent Number	: 7591851	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,399	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **525** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SLATER & MATSIL, L.L.P.
17950 PRESTON RD., SUITE 1000
DALLAS TX 75252-5793

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APR 16 2008

In re Application of	:	
Keith A. Liljestrand et al	:	
Application No. 11/053,402	:	DECISION GRANTING PETITION
Filed: February 8, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. WAV-001C1	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 5, 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 2614 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,402	02/08/2005	Keith A. Liljestrand	16005.00012

CONFIRMATION NO. 6931

POA ACCEPTANCE LETTER

25962
SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

OC000000029411630

Date Mailed: 04/15/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/14/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SLATER & MATSIL, L.L.P.
SUITE 1000
17950 PRESTON RD
DALLAS, TX 75252-5793

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JAN 06 2009

OFFICE OF PETITIONS

In re Application of Liljestrand et al. :
Application No. 11/053,402 : DECISION ON PETITION
Filing Date: February 8, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. WAV-001C1 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other

requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center Art Unit 2614 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/053,402	02/08/2005	2614	800	WAV-001C1	20	2

CONFIRMATION NO. 6931

CORRECTED FILING RECEIPT

25962
SLATER & MATSIL, L.L.P.
17950 PRESTON RD, SUITE 1000
DALLAS, TX 75252-5793

OC000000033916597

Date Mailed: 01/05/2009

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)

Keith A. Liljestrand, Plano, TX;
Christopher G. Kingsley, Coppell, TX;
Jeffrey R. Myint, Plano, TX;

Power of Attorney: The patent practitioners associated with Customer Number 25962

Domestic Priority data as claimed by applicant

This application is a DIV of 09/792,207 02/23/2001 PAT 6,853,714
which claims benefit of 60/185,204 02/25/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/053,402**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

APPARATUS AND METHOD FOR PROVIDING ENHANCED TELECOMMUNICATIONS SERVICES

Preliminary Class

379

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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JUL 29 2005
OFFICE OF PETITIONS

In re Application of	:	
Miyasaka, et al.	:	
Filed: February 9, 2005	:	ON PETITION
Application No. 11/053,422	:	
Atty. Dkt. No.: 8029-1071	:	

This decision is in response to the "RESPONSE TO NOTICE OF OMITTED ITEM IN NON-PROVISIONAL APPLICATION," filed April 12, 2005, to accord the above-identified application a filing date of February 9, 2005 and acknowledgement of receipt of Figure 11.

The application was filed February 9, 2005. The Notice of Omitted Item(s) in a Nonprovisional Application mailed March 14, 2005 indicated that the application had been accorded a filing date but that Figure 11 appeared to have been omitted from the application as filed.

In response, petitioners argue that the application as deposited included Figure 11. Petitioners have included as proof of mailing and proof of receipt of Figure 11 a return postcard date stamped by the Office on February 9, 2005. A copy of Figure 11 purportedly filed with the application on February 9, 2005 was also supplied.

The original Figure 11 submitted with the application papers has not been located. However, in view of the evidence presented, the Notice mailed March 14, 2005 is hereby **WITHDRAWN** and the petition to accord the application a filing date of February 9, 2005 is GRANTED.

Since the original drawing sheet cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 9, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WORCESTER, MA 01609-2797

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JAN 15 2010

In re Application of
John R. Person
Application No. 11/053,432
Filed: February 8, 2005
Attorney Docket No. P003-101

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliant Appeal Brief under 37 CFR 41.37(c)(1), mailed August 21, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 22, 2007. A Notice of Abandonment was mailed on December 3, 2007. On October 31, 2009, the present petition was filed.

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).

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on September 22, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Copies of any correspondence

relating to the filing, or to not filing a further reply to the outstanding Office action are required from the responsible person(s), and whoever else was involved with this application at the time of abandonment. 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).

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]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Bonkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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43 HIGHLAND STREET
WORCESTER, MA 01609-2797

MAILED

MAY 04 2010

OFFICE OF PETITIONS

In re Application of
John R. Pearson
Application No. 11/053,432
Filed: February 8, 2005
Attorney Docket No. P003-101

ON PETITION

This is a decision on the renewed petition, filed March 16, 2010, to revive the above-identified application under 37 CFR 1.137(b).

The petition is **granted**.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliant Appeal Brief under 37 CFR 41.37(c)(1), mailed August 21, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). A Notice of Abandonment was mailed on December 3, 2007. On October 31, 2009, a petition under the provisions of 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed January 14, 2010. In response, on March 16, 2010, the present petition was filed.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amended Appeal Brief; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 1616.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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.: 09-07

Paper No: __

MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW, L.L.C.
CUMBERLAND CENTER II
3100 CUMBERLAND BLVD , SUITE 1400
ATLANTA GA 30339

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Murphy	:	DECISION
Application No.: 11/053,447	:	
Filing Date: 8 February, 2005	:	
Attorney Docket No. 22270-RA4	:	

This is a decision on the petition filed on 13 July, 2007, and considered as a request to withdraw the holding of abandonment 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]

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 final Office action mailed on 20

[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.**

November, 2006, with reply due absent an extension of time on or before 20 February, 2007;

- the application went abandoned by operation of law after midnight 20 February, 2007;
- the Office mailed a Notice of Abandonment on 20 June, 2007;
- on 13 July, 2007, Petitioner filed the instant petition with, *inter alia*, an averment that he filed a reply timely and properly, and provides copies of the papers in question and of the date-stamped ("APR 11 2007") receipt card (see: MPEP §503[2]) in support of the averment, and Office records also support the averment.

Notably, 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 immediate and 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.

---

[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,[9] 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.[10]))

---

[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] 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).

[10] 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.[11]

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.

---

[11] 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 that Petitioner has satisfied the showing requirement herein.

CONCLUSION

Because it appears that Petitioner has satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **granted**.

The instant application is released to Technology Center 1700 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[12]) 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

[12] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090506

DATE : April 28, 2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,499,002

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

/Bipin Shalwala/
Supervisory Patent Examiner, Art Unit 2629

PTOL-306 (Rev. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

11/053459

In re:

Inventor: Donald J. Reum, Sr.

For: Apparatus for Shaping and Perforating a Plastic Film

Filed: Herewith 2-7-05

PETITION TO THE COMMISSIONER TO MAKE SPECIAL DUE TO INVENTOR'S AGE

In accord with 37 CFR 1.102(c) and MPEP §708.02 subpart IV, the applicant hereby petitions that the present application be made special in view of the applicant's age. A copy of the applicant's driver's license is attached herewith, establishing him to be 80 years of age.

Respectfully,

Albert W. Watkins
reg. no. 31,676
(320) 363-7296

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

KULICKE AND SOFFA INDUSTRIES, INC.
1005 VIRGINIA DRIVE
FORT WASHINGTON PA 19034

COPY MAILED

JUL 07 2008

OFFICE OF PETITIONS

In re Application of BRUNNER et al. Application No. 11/053,499 Filed: 02/08/2005 Attorney Docket No. KSI-381US	DECISION ON PETITION UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 1, 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.

The intermediate nonprovisional application, No. 10/948,905, was filed on September 24, 2004, within twelve months of the filing date of the prior-filed provisional application, No. 60/506,269, which was filed on September 26, 2003, 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, No. 60/506,269. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 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] deleting the incorporation by reference statement related to Application No. 60/506,269. No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KULICKE AND SOFFA INDUSTRIES, INC.
1005 VIRGINIA DRIVE
FORT WASHINGTON PA 19034

COPY MAILED
JUL 16 2008

In re Application of	:
BRUNNER et al.	:
Application No. 11/053,499	: DECISION ON PETITION
Filed: 02/08/2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KSI-381US	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). The Office notes that the intermediate nonprovisional application, No. 10/948,905, was filed on September 24, 2004, within twelve months of the filing date of the prior-filed provisional application, No. 60/506,269, which was filed on September 26, 2003, 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.

the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211.

The application is being forwarded to Technology Center AU 1793 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Christina Tartera Donnell

Christina Tartera Donnell
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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/053,499	02/08/2005	1793	1300	KSI-381US	15	2

CONFIRMATION NO. 7218

CORRECTED FILING RECEIPT

56223
KULICKE AND SOFFA INDUSTRIES, INC.
1005 VIRGINIA DRIVE
FORT WASHINGTON, PA 19034

OC000000030989272

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)

Jon Brunner, Sellersville, PA;
Horst Clauberg, Lafayette Hill, PA;
John Shuhart, Warminster, PA;

Assignment For Published Patent Application

Kulicke & Soffa Investments, Inc

Power of Attorney: The patent practitioners associated with Customer Number 56223

Domestic Priority data as claimed by applicant

This application is a CIP of 10/948,905 09/24/2004
which claims benefit of 60/506,269 09/26/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/053,499**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ELECTRONIC FLAME-OFF ELECTRODE WITH BALL-SHAPED TIP

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

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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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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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APR 26 2007

OFFICE OF PETITIONS

In re Application of
STRISOWER, John
Application No. 11/053,526
Filed: February 07, 2005
Attorney Docket No. **2504095-991101**

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 Februay 09, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to DLA PIPER RUDNICK GRAY CARY US, LLP has been revoked by the assignee of the patent application on February 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **PILLSBURY WINTHROP SHAW PITTMAN LLP**
P.O. BOX 10500
MCLEAN, VA 22102

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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
11/053,526	02/07/2005	John Strisower	2504095-991101

CONFIRMATION NO. 9300

OC000000023517334

27498
PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

Date Mailed: 04/24/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Michelle R. Eder

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,526	02/07/2005	John Strisower	2504095-991101

CONFIRMATION NO. 9300

OC000000023517320

26379
DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

Date Mailed: 04/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/13/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

IFW

OIPE
NOV 2 5 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald D. Sloan)
) Group Art Unit: 1762
Serial No.: 11/053,542)
) Examiner: Jennifer Kolb Michener
Filed: February 8, 2005)

For: THERMALLY REACTIVE INK TRANSFER SYSTEM

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Petition to Make Special Under 37 C.F.R. § 1.102(c)

Dear Sir:

This is a Petition to Make Special the above-identified patent application. The basis for this petition is that the applicant is over sixty-five years of age. In accordance with Manual of Patent Examining Procedure § 708.02 IV, a certified copy of applicant's birth certificate is attached. In view of the above, applicant requests that this Petition to Make Special be granted and the examination of the application be advanced.

Respectfully submitted,

Sean T. Bradley
Reg. No. 46,572
Attorney for the Applicant

ERICKSON & KLEYPAS, L.L.C.
800 W. 47th Street, Suite 401
Kansas City, Missouri 64112
Phone: (816) 753-6777

Dated November 22, 2005

(Docket 252.02)

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOVEY WILLIAMS LLP
10801 MASTIN BLVD., SUITE 1000
OVERLAND PARK KS 66210

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Donald S. SLOAN	:	
Application No. 11/053,542	:	DECISION ON PETITION
Filed: February 08, 2005	:	
Attorney Docket No. 37192	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 16, 2008, 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). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 January 16, 2008 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 1794 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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Alexandria, VA 22313-1450
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QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX AZ 85004-2391

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
James C. Wagner	:	
Application No. 11/053,543	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. 116316.00002	:	FROM RECORD
	:	

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 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 Robert D. Atkins 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 James C. Wagner at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed December 20, 2006.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **JAMES C. WAGNER**
10414 N. 10TH PLACE, #3
PHOENIX, AZ 85020

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,543	02/07/2005	James C. Wagner	116316.00002

CONFIRMATION NO. 7245

POWER OF ATTORNEY NOTICE

26707
QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX, AZ 85004-2391

OC000000029167083

Date Mailed: 03/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/17/2007.

- 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.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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JUL 0 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of:
HAYASHIDA, NAOKI, et al.
Application No. 11/053,547
Filed: June 3, 2005
For: **ARTIFICIAL FINGER PRINT LIQUID, TESTING METHOD FOR OPTICAL INFORMATION MEDIUM USING IT, AND OPTICAL INFORMATION MEDIUM**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed June 3, 2005 under Manual of Patent Examination Procedure 708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure 708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. 1.111(b) and (c), how the claimed subject matter is patentable over the references.

The petition meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. After mailing, the application will be forwarded to the examiner for immediate handling.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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BLISS McGLYNN PC
2075 WEST BIG BEAVER ROAD
SUITE 600
TROY, MI 48084

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of :
Ron W. Kwasniewicz et al :
Application No. 11/053,552 : DECISION ACCORDING STATUS
Filed: February 8, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 6527.00007 :

This is in response to the communication received August 17, 2005, which is being treated as a request to accord 37 CFR 1.47(a) status to the above-identified application. Copies of the decisions in parent Application Nos. 10/256,665 and 10/277,452, which granted a petition to accord 37 CFR 1.47(a) therein, of which the instant application is a continuation, accompany the instant request.

The request is **granted**.

Where status under 37 CFR 1.47 is granted in a first application and the nonsigning inventor does not later join in the filing by executing an oath or declaration for the application, and another application (a child application) is later filed claiming the benefit of the filing date of the first application and using the declaration of the prior application, status under 37 CFR 1.47 continues to exist in the child application. Prior Application Nos. 10/256,665 and 10/277,452, of which the instant application claims priority benefits under 35 USC 120, were accorded 37 CFR 1.47 status.

37 CFR 1.63(d)(3) states:

> Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:
>
> (i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an

> application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c).

The application papers were not accompanied by a copy of the decisions granting a petition under 37 CFR 1.47(a) in the prior applications. However, as noted above, a copy of the decisions granting 37 CFR 1.47(a) status in the parent applications has been supplied.

The above-identified application and papers are now in compliance with 37 CFR 1.47(a). This application is hereby accorded rule 1.47(a) status. As provided in 37 CFR 1.47(c), no notice of this application's filing will be forwarded to the nonsigning inventor nor will such notice be published in the Official Gazette since notice regarding the filing of the prior application was given to the nonsigning inventor.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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AUG 17 2005

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MAIL DATE_____

LIN J. HYMEL
PALMER & DODGE LLP
111 HUNTINGTON AVENUE
BOSTON, MA 021-0721

In re Application of	:
KOPIN, ALAN S.,CAREY, MARTIN &	:
WANG, DAVID	: PETITION TO MAKE SPECIAL
Serial No.: 11/053,553	:
Filed: 08 FEBRUARY 2005	:
Attorney Docket No.: 7237	

This is in response to applicants' petition filed JULY 28 2005 , to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/053,564	02/07/2005	2826	1200	27-079	10	20	4

CONFIRMATION NO. 7248

CORRECTED FILING RECEIPT

OC000000020194944

22898
THE LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE, CA 94087

Date Mailed: 08/25/2006

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)

Il Kwon Shim, Singapore, SINGAPORE;
Seng Guan Chow, Singapore, SINGAPORE;
Jeffrey D. Punzalan, Singapore, SINGAPORE;
Pandi Chelvam Marimuthu, Singapore, SINGAPORE;

Assignment For Published Patent Application

STATS CHIPPAC LTD., Singapore, SINGAPORE

Power of Attorney: The patent practitioners associated with Customer Number **22898**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/053,564

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Multi-leadframe semiconductor package and method of manufacture

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR CA 91392-9221

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Annapurna Karicherla et al.
Application No. 11/053,566
Filed: February 8, 2005
Attorney Docket No. **A05P1014US04**

: DECISION ON PETITION

This is a decision on the petition to accord filing date under 37 CFR 1.10(c), filed December 13, 2006. The petition requests that the above-identified application be accorded a filing date of February 7, 2005, rather than the presently accorded filing date of February 8, 2005.

The petition is **DISMISSED**.

Petitioner alleges that the application was deposited in Express Mail service on February 7, 2005. In support, petitioner supplied a copy of Express Mail receipt No. EV100894363US (the same Express Mail number found on the itemized transmittal sheet accompanying the original application papers located in the official file). The "date-in" shown on the Express Mail customer label is blank, however, a postmark is provided but is illegible so the mail date cannot be determined.

Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and

(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

The instant petition lacks the showing required by item (3).

In regards to paragraph (3) above, petitioner must submit a true copy of the "Express Mail" mailing label clearly showing the "date-in" and any other official notation by the USPS relied upon to show the date of deposit. Alternatively, petitioners may submit official documentation obtained directly from the USPS confirming that the Express Mail mailing was deposited in Express Mail service on the alleged mailing date.

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, VA22313-1450
www.uspto.gov

PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR CA 91392-9221

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of
Annapurna Karicherla et al.
Application No. 11/053,566
Filed: February 7, 2005
Attorney Docket No. **A05P1014US04**

: DECISION ON PETITION

This is a decision on the request for reconsideration filedAugust 7, 2007, under 37 CFR 1.10(c). The petition requests that the above-identified application be accorded a filing date of February 7, 2005, rather than the presently accorded filing date of February 8, 2005.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) was filed December 13, 2006 and dismissed in a decision mailed July 23, 2007 because the Express Mail Label provided as proof of mailing on February 7, 2005 was blank and the postmark affixed to the Express Mail Label was illegible thus, petitioner failed to show that the application had been deposited in the USPS Express Mail Service on February 7, 2005.

Comes now petitioner with a more legible copy of the envelope with the postmark affixed thereto. Express Mail Label No. EV100894363US (the same Express Mail number found on the transmittal sheet accompanying the original application papers located in the official file) bears a USPS postmark of February 7, 2005.

In view of the above, the petition is GRANTED and since no fee is due, petitioner's deposit account no. 16-0068 has been credited in the amount of $130.00, the fee paid with the petition.

The application is being forwarded to the Office of Initial Patent Examination for correction of the **filing date to February 7, 2005** and for issuance of a corrected filing receipt.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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805 SW BROADWAY #2740
PORTLAND, OR 97205

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Robert H. Bryant	:	
Application No. 11/053,568	:	ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. 1253-004/JRD	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 4, 2005, to revive the above-identified application.

The petition is **DISMISSED** as moot.

The application was filed on February 7, 2005. On March 14, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), stating that the oath or declaration was unsigned. This Notice provides a reply period of 2 months from its mailing date which is extendable under 37 CFR 1.136(a). Applicant may extend the reply period by up to 5 months, i.e., through October 14, 2005.[1]

A review of the file indicates that the transmittal form filed with the application on February 7, 2005, contains a general authorization for the USPTO to charge any required fees, which would include fees for extension of time under 37 CFR 1.136(a) to response to the Notice. Therefore, the general authorization is hereby treated as a constructive petition for a 5-month extension of time. The petition is thus dismissed as moot.

The $750 petition fee has been credited to Deposit Account No. 50-0241 as authorized. The $$1,080 fee required for a 4-month extension of time has been charged to the same deposit account as authorized in the application transmittal.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

---

[1] See MPEP 710.02 (d).

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TOLER LARSON & ABEL, LLP
5000 PLAZA ON THE LAKE
SUITE 265
AUSTIN, TX 78746

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Steve Zhihua Zeng	:	
Application No. 11/053,586	:	DECISION GRANTING
Filed: February 8, 2005	:	STATUS UNDER
Attorney Docket No.	:	37 CFR 1.47(b)
1459-VIXS073	:	

This is in response to the Petition to Make Application for Patent on Behalf of and as Agent for All Inventors and Statements in Support Thereof (37 CFR § 1.47(b)), filed May 16, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors. The petition is properly treated under 37 CFR 1.47(b)

The petition is **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, Steve Zhihua Zeng, refuses to join in the application.

As provided in Rule 1.47, 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 referred 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
Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Steve Zhihua Zeng
285 PRIMROSE LANE
NEWMARKET, ONTARIO
CANADA L3Y 5Z1

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JUN 27 2005
OFFICE OF PETITIONS

In re Application of	:	
Steve Zhihua Zeng	:	
Application No. 11/053,586	:	LETTER
Filed: February 8, 2005	:	
Attorney Docket No.	:	
1459-VIXS073	:	

Dear Mr. Zeng:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: TOLER LARSON & ABEL, LLP
5000 PLAZA ON THE LAKE
SUITE 265
AUSTIN, TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 6000
SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of
Emilio Miguelanez, Michael J. Scott,
Jacky Gorin, Paul Buxton and Paul Tabor
Application No. 11/053,598
Filed: February 7, 2005
Title: METHODS AND APPARATUS FOR
DATA ANALYSIS

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 25, 2005 (certificate of mailing date: August 22, 2005).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on February 7, 2005 without an executed oath or declaration and naming Emilio Miguelanez, Michael J. Scott, Jacky Gorin, Paul Buxton and Paul Tabor as joint inventors.

Accordingly, on March 22, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on August 25, 2005, the instant petition and a three (3) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

NOBLITT & GILMORE, LLC.
4800 NORTH SCOTTSDALE ROAD
SUITE 6000
SCOTTSDALE, AZ 85251

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JAN 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Emilio Miguelanez, Michael J. Scott,	:	
Jacky Gorin, Paul Buxton and Paul Tabor	:	
Application No. 11/053,598	:	DECISION GRANTING PETITION
Filed: February 7, 2005	:	UNDER 37 CFR 1.47(a)
For: METHODS AND APPARATUS FOR	:	
DATA ANALYSIS	:	

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed December 27, 2005 (Certificate of Mailing date: December 20, 2005).

The petition is **granted**.

Petitioner has shown that non-signing inventor Paul Tabor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 2100 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PAUL TABOR
425 WEST MERRILL AVENUE
GILBERT, AZ 85233

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of
Emilio Miguelanez, Michael J. Scott,
Jacky Gorin, Paul Buxton and Paul Tabor
Application No. 11/053,598
Filed: February 7, 2005
For: METHODS AND APPARATUS FOR DATA ANALYSIS

Dear PAUL TABOR:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

NOBLITT & GILMORE, LLC.
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SCOTTSDALE, AZ 85251

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OFFICE OF PETITIONS

In re Application of	:	
Emilio Miguelanez, et al.	:	
Application No. 11/053,598	:	DECISION ON PETITION
Filed: February 7, 2005	:	
Attorney Docket No. TAI.0900	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 7, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 6, 2007. Accordingly, the date of abandonment of this application is May 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/6/09

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 11053598 Patent No.: 7356430

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Valerie Jackson
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: ok to enter

Drew A. Dunn
SPE 2863 /Drew A. Dunn/ 2863
SPE **Art Unit**

APPROVED: /C.H.K./

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

Inventor:	Miguelanez et al.	Docket No.	TAI.0900
Serial No.	11/053,598	Examiner:	John Barlow
Filing Date:	February 7, 2005	Art Unit:	2863
Title:	METHODS AND APPARATUS FOR DATA ANALYSIS		

CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

Please correct the above-identified patent by issuing a Certificate of Correction for a Patent Office mistake under Rule 1.323 as follows:

Please enter the attached formalized drawings for the above referenced application.

The payment of the fee set forth in 1.20(a) - $100.00 - is enclosed. The issuance of a Certificate of Correction is thus considered proper.

Date: 04 JUN 08

Daniel J. Noblitt, Reg. No. 35969
Noblitt & Gilmore, LLC
4800 North Scottsdale Road, Suite 6000
Scottsdale, Arizona 85251
Telephone: 480.994.9859
Facsimile: 480.994.9025

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Alexandria, VA 22313-1450
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SEP 19 2005

LAW OFFICES OF TIMOTHY
M. BARLOW
P.O. BOX 64775
TUCSON, AZ 85728-4775

In re application of Willie L. Donaldson Application No. 11/053,608 Filed: February 8, 2005 For: AFFILIATE MANIPULATION SYSTEM AND METHOD	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed July 7, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed July 7, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dcg: 7/29/05

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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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OFFICE OF PETITIONS

In re Application of	:
Hartman, et al.	: DECISION REFUSING STATUS
Application No. 11/053,620	: UNDER 37 CFR 1.47(a)
Filed: February 8, 2005	:
Atty. Dkt. No.: 048777/288626	:
For: LEAK DETECTOR FOR	:
DETECTING LEAK OF LIQUID	:
INJECTED INTO BLOOD VESSEL	:
USING PULSE SIGNAL	:

This decision is in response to the petition under 37 CFR 1.47(a), filed December 12, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed February 8, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed June 9, 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 lacks requirement (2) set forth above. As to item (2), an oath or declaration in compliance with 37 CFR 1.63 is required. The declaration filed herewith is unacceptable as it fails to set forth the mailing address of each inventor as required under 37 CFR 1.63(c)(1). There is no indication that this information has been supplied by way of Application Data Sheet in compliance with 37 CFR 1.76. Accordingly, any renewed petition must be accompanied by a proper oath or declaration, or, if deemed appropriate, an Application Data Sheet in compliance with 37 CFR 1.76.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand:	U.S. Patent and Trademark Office Customer Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

In re Application of	:
Hartman, et al.	: DECISION GRANTING STATUS
Application No. 11/053,620	: UNDER 37 CFR 1.47(a)
Filed: February 8, 2005	:
Atty. Dkt. No.: 048777/288626	:
For: LEAK DETECTOR FOR	:
DETECTING LEAK OF LIQUID	:
INJECTED INTO BLOOD VESSEL	:
USING PULSE SIGNAL	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed March 29, 2006.

The petition is **GRANTED**.

Petitioner has shown that inventor Seiichi Ono, through counsel, has refused to sign oath or declaration after having been presented with the complete 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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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C/O NEMOTO KYORINDO CO., LTD.
27-20 HONGO 2-chrom
BUNKYO-KU
TOKYO, JAPAN

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OFFICE OF PETITIONS

In re Application of	:	
Hartman, et al.	:	LETTER
Application No. 11/053,620	:	
Filed: February 8, 2005	:	
Atty. Dkt. No.: 048777/288626	:	
For: LEAK DETECTOR FOR	:	
DETECTING LEAK OF LIQUID	:	
INJECTED INTO BLOOD VESSEL	:	
USING PULSE SIGNAL	:	

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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MAY 12 2008

In re Application of	:	
Charles J. Winslow et al.	:	
Application No. 11/053,624	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. 19433A-005120US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish and all attorneys/agents associated with customer number 20350 has been revoked by the assignee of the patent application on January 7, 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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP
901 Main Street
Suite 3100
Dallas, TX 75202

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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Medtronic
Attn: Noreen C. Johnson, IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: Charles J. Winslow	: DECISION ON REQUEST FOR
Patent Number	: 7601170	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,624	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **671** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OFFICE OF PETITIONS

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Application of	:	
Daniel C. Dantini, et al.	:	
Application No. 11/053,680	:	DECISION ON PETITION
Filed: February 9, 2005	:	TO WITHDRAW
Attorney Docket No. 070556-0013	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed August 30, 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 Judith L. Toffenetti on behalf of all attorneys of record who are associated with customer No. 20277.

All attorneys/agents associated with the Customer Number 20277 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 C. Dantini at the address indicated below.

The application became abandoned for failure to timely respond to the outstanding Office action mailed May 2, 2007.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL C. DANTINI, MD
303 RIO PINAR
ORMOND BEACH, FL 32174

cc: BRENT L. DORVAL, PHD
PRESIDENT AND MANAGING PARTNER
BRENDAN BIO SCIENCE, LLC3
3A BUSINESS WAY
HOPEDALE, MA 01747

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
11/053,680	02/09/2005	Daniel C. Dantini	070556-0013

CONFIRMATION NO. 4604

POWER OF ATTORNEY NOTICE

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

OC000000028052227

Date Mailed: 02/01/2008

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.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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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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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Anthony Renau et al	:	
Application No. 11/053,683	:	DECISION GRANTING PETITION
Filed: February 8, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. V0077.70147US01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 9, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 19, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Changhoon Choiappearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party on whose behalf he/she acts. If Changhoon Choi desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

---

[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.*

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2881 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Petitions Examiner
Office of Petitions

cc:

CHANGHOON CHOI
VARIAN SEMICOND. EQUIP. ASSOC., INC.
35 DORY ROAD
GLOUCESTER, MASSACHUSETTS 01930-2297

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JOHN F. LETCHFORD
ARCHER & GREINER, P.C.
ONE CENENNIAL SQUARE
HADDONFIELD, NJ 08033

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OFFICE OF PETITIONS

In re Application of	:	
WINELAND, Gary W.	:	
Application No. 11/053,685	:	DECISION ON PETITION
Filed: February 9, 2005	:	TO WITHDRAW
Attorney Docket No. **WIN070.10001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 4, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John F. Letchford on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Gary W. Wineland 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: **GARY W. WINELAND**
R.R. 2, BOX 504
ROARING SPRINGS, PA 16673

UNITED STATES PATENT AND TRADEMARK OFFICE

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GIBSON & DERNIER LLP
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE, NJ 07095

Mail Date: 04/21/2010

Applicant	: Takeshi Yamazaki	: DECISION ON REQUEST FOR
Patent Number	: 7613886	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

NASA AMES RESEARCH CENTER
ATTN: PATENT COUNSEL
MAIL STOP 202A-4
MOFFETT FIELD CA 94035-1000

In re Application of	:	
Steven M. Green	:	
Application No. 11/053,713	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. ARC-15392-1	:	

This is a decision on the petition, filed June 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid May 7, 2007 on in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3661 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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APR 14 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

In re Application of :
COATS, ELON RAY, et al. :
Application No. 11/053,716 :
Filed: February 8, 2005 :
For: **SUB-HARMONIC GENERATOR AND STEREO EXPANSION PROCESSOR** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 28, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Kagan Binder, PLLC
Suite 200
221 Main Street North
Stillwater MN 55082

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of	:
Mekias	: DECISION GRANTING STATUS
Application No. 11/053,722	: UNDER 37 CFR 1.47(b)
Filed: February 7, 2005	:
Atty. Dkt. No.: FSI0106/US	:
For: PROCESSING SYSTEM WITH	:
MULTI-CHAMBER PUMP, AND RELATED	:
APPARATUS AND METHODS	:

This decision is in response to the petition under 37 CFR 1.47(b), filed July 28, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Kadar Mekias has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

In re Application of
Andrew R. NEUREUTHER, et al
Application No. 11/053,725
Filed: February 7, 2005
Attorney Docket No. UCALP048

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 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Beyer Weaver LLP has been revoked by the assignee of the patent application on April 2, 2002. 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 indicated below.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: WITHROW & TERRANOVA, PLLC
ATTN: MR. BEN WITHROW
100 REGENCY FOREST DRIVE, SUITE 160
CARY, NC 27518

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,725	02/07/2005	Andrew R. Neureuther	UCALP048

CONFIRMATION NO. 6683

OC000000024006722

27820
WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

Date Mailed: 05/23/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/02/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,725	02/07/2005	Andrew R. Neureuther	UCALP048

CONFIRMATION NO. 6683

OC000000024006711

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 05/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/02/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Diane Goodwyn

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/053,725	02/07/2005	Andrew R. Neureuther	UCALP048

CONFIRMATION NO. 6683

OC000000024006711

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 05/23/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/02/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
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OFFICE OF PETITIONS

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

In re Application of	:	
Andrew R. NEUREUTHER, et al	:	
Application No. 11/053,725	:	DECISION ON PETITION
Filed: February 7, 2005	:	TO WITHDRAW
Attorney Docket No. UCALP048	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to Beyer Weaver LLP has been revoked by the assignee of the patent application on April 2, 2002. 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 indicated below.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: WITHROW & TERRANOVA, PLLC
ATTN: MR. BEN WITHROW
100 REGENCY FOREST DRIVE, SUITE 160
CARY, NC 27518

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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In re Application of	:	
Charles J. Winslow et al.	:	
Application No. 11/053,735	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. 19433A-005130US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish and all attorneys/agents associated with customer number 20350 has been revoked by the assignee of the patent application on January 7, 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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Haynes and Boone, LLP
901 Main Street
Suite 3100
Dallas, TX 75202

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 28 2005

JUNMING LE ET AL
HAMILTON, BROOK, SMITH & REYNOLDS
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

In re Application of	:
JUNMING LE et al.	:
Serial No.: 11/053,749	: PETITION TO MAKE SPECIAL
Filed: FEBRUARY 07, 2005	:
Attorney Docket No.: 0975.1005.040	:

This is in response to applicants' petition filed February 07, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicant have satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore, the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William Dixon by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William Dixon
Special Program Examiner
Technology Center 1600

OIPE JC98
JUN 02 2005
PATENT & TRADEMARK OFFICE

IFW

Atty. Dkt. No. 085747-0528

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Louise Edwards, Methvin Isaac, Martin Johansson, Annika Kers, Johan Malmberg, Donald A. McLeod, Alexander Minidis, Staaf Karin, Abdelmalik Slassi, Tomislav Stefanac, Thomas Storman, David Wensbo

Title: ADDITIONAL HETEROPOLYCYCLIC COMPOUNDS AND THEIR USE AS METABOTROPIC GLUTAMATE RECEPTOR ANTAGONISTS

Appl. No.: 11/053752

Filing Date: 02/09/2005

Patent No:

WITHDRAWAL OF ATTORNEY OF RECORD AND CHANGE OF CORRESPONDENCE ADDRESS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Due to the client's request to transfer certain applications, effective May 27, 2005, Foley & Lardner LLP attorneys associated with CUSTOMER NUMBER: 22428, withdraw as Attorney of Record for the captioned application. The undersigned is signing this withdrawal on behalf of herself and all the aforementioned attorneys.

All further correspondence should be sent to:

Andrew Duff Meikle
Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Road, Suite 500 East
P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000; Fax: (703) 205-8050

Respectfully submitted,

Date 31 May 2005

By S. A. Bent

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5300
Facsimile: (202) 672-5399

Stephen A. Bent
Attorney for Applicant
Registration No. 29,768

APPROVED MCS 6/16/05 DMC

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.

BIRCH, STEWART, KOLASCH &
BIRCH, LLP
P.O. BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

JUL 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Edwards et al.	:	
Application No. 11/053,752	:	ON APPLICATION FOR
Filed: February 9, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 5998-0507PUS3	:	

This is in response to the LETTER filed March 5, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred eighty-one (981) days, not five hundred twenty-six (526) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), applicants request this correction on the basis that the Office will take in excess of three years to issue this patent[1]. In addition, applicants' calculation appears to include a 38 day debit for applicant delay.

To the extent that applicants request correction of the initial determination of patent term adjustment (PTA) based on entry of an additional period of reduction of 38 days, the request is **GRANTED**.

The Office has updated the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred eighty-eight **(488)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

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[1] Applicants assert this calculation based on a projected issuance date of June 16, 2009.

On December 5, 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 526 days. However, applicants do not disclose a basis for their disclosure that entry of a period of reduction of 38 days is warranted.

Nonetheless, a review of the application history reveals a basis for entry of a 38 day period of reduction. 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, applicants filed a response to a non-final rejection on April 25, 2008. Thereafter, on June 2, 2008, applicants filed the supplemental amendment. The supplemental amendment was not expressly requested by the examiner. Accordingly, pursuant to §1.704(c)(8), an additional period of reduction of 38 days is being entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is four hundred eighty-eight (488) days (526 - 38).

To the extent that applicants otherwise 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 <u>DISMISSED as PREMATURE</u>.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for

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

Enclosure: Copy of REVISED PALM Screen

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reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Day : Monday
Date: 7/20/2009

PALM INTRANET

Time: 20:40:15

PTA Calculations for Application: 11/053752			
Application Filing Date:	02/09/2005	PTO Delay (PTO):	526
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	488
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	07/20/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
61	12/05/2008	MAIL NOTICE OF ALLOWANCE			
60	12/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	12/04/2008	CASE DOCKETED TO EXAMINER IN GAU			
58	12/02/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
57	12/02/2008	ISSUE REVISION COMPLETED			
56	12/02/2008	DOCUMENT VERIFICATION			
55	12/02/2008	EXAMINER'S AMENDMENT COMMUNICATION			
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47	10/31/2008	ADVISORY ACTION (PTOL-303)			
46	10/29/2008	DATE FORWARDED TO EXAMINER			
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44	06/02/2008	MISCELLANEOUS INCOMING LETTER			
43	07/09/2008	MAIL FINAL REJECTION (PTOL - 326)			
41	07/03/2008	FINAL REJECTION			
39	05/13/2008	DATE FORWARDED TO EXAMINER			
38	04/25/2008	RESPONSE AFTER NON-FINAL ACTION			
37	01/28/2008	MAIL NON-FINAL REJECTION			
36	01/22/2008	NON-FINAL REJECTION			
35	05/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	03/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	06/18/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
32	11/21/2007	DATE FORWARDED TO EXAMINER			
31	11/15/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
30	11/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	09/17/2007	MAIL RESTRICTION REQUIREMENT	526		-1
28	09/14/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
27	08/16/2007	PRELIMINARY AMENDMENT			
26	06/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	06/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
21.7	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	02/24/2006	CORRESPONDENCE ADDRESS CHANGE			
19	09/29/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18	06/21/2005	CORRESPONDENCE ADDRESS CHANGE			
17	06/21/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
16	06/17/2005	MAIL-RECORD PETITION DECISION OF GRANTED RELATED TO ATTORNEY			
15	06/02/2005	PARALEGAL PETITION DECISION			
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13	05/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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10	05/31/2005	APPLICATION RETURN TO OIPE			
9	05/31/2005	APPLICATION DISPATCHED FROM OIPE			
8	05/31/2005	APPLICATION IS NOW COMPLETE			
7	05/20/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	05/20/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

5	03/14/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	03/02/2005	CLEARED BY OIPE CSR			
2	02/22/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/09/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Back to OASIS | Home page

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/5/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/053752 Patent No.: 7585881 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~~
571.272.0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

1625
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/21/2010

Applicant	: Louise Edwards	: DECISION ON REQUEST FOR
Patent Number	: 7585881	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,752	: OF WYETH
Filed	: 02/09/2005	:
		:

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

Birch,Stewart, Kolasch, Birch
P.O. Box 747
Falls Church, Va 22040-0747

MAILED

MAY 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,585,881 Edwards et al. Issue Date: September 8, 2009 Application No. 11/053,752 Filed: Feb. 9, 2005 Attorney Docket No. 5998-0507PUS3 Title: Additional Heteropolycyclic Compounds And Their Use As Metabotropic Glutamate Receptor Antagonist	DECISION UPON REMAND AND RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand and sixty-five (1065) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and sixty-five (1065) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,585,881 B2

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Edwards et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 553 days

Delete the phrase "by 553 days" and insert – by 1065 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 09:25:30

PTA Calculations for Application: 11/053752			
Application Filing Date:	02/09/2005	PTO Delay (PTO):	591
Issue Date of Patent:	09/08/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	1065
PTO Delay Adjustment:	474		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
85	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	512		
76.5	08/19/2009	PTA 36 MONTHS			
76	09/08/2009	PATENT ISSUE DATE USED IN PTA CALCULATION	65		67
75	08/06/2009	EXPORT TO FINAL DATA CAPTURE			
74	08/05/2009	DISPATCH TO FDC			
73	07/31/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
72	07/31/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
72	07/31/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
71	07/20/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
71	07/20/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
70	03/24/2009	FINISHED INITIAL DATA CAPTURE			
69	03/05/2009	PETITION ENTERED			
68	03/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
67	03/05/2009	ISSUE FEE PAYMENT VERIFIED			
66	03/05/2009	ISSUE FEE PAYMENT RECEIVED			
65	12/31/2008	MAIL EXAMINER'S AMENDMENT			
64	12/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
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60	12/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION			

		COMPLETED			
59	12/04/2008	CASE DOCKETED TO EXAMINER IN GAU			
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57	12/02/2008	ISSUE REVISION COMPLETED			
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46	10/29/2008	DATE FORWARDED TO EXAMINER			
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34	03/16/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	06/18/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	11/21/2007	DATE FORWARDED TO EXAMINER			
31	11/15/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
30	11/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	09/17/2007	MAIL RESTRICTION REQUIREMENT	526		-1
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27	08/16/2007	PRELIMINARY AMENDMENT			
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25	06/18/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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21	03/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
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3	03/02/2005	CLEARED BY OIPE CSR			
2	02/22/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/09/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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Scott Boalick
USPTO
600 Dulany Street
Alexandria, VA 22313

COPY MAILED

AUG 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Arthur E. Clark et al.	:	
Application No. 11/053,753	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 95,981	:	FROM RECORD
	:	

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 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **OFFICE OF COUNSEL, CODE 004**
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA MD 20817

UNITED STATES PATENT AND TRADEMARK OFFICE

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Scott Boalick
USPTO
600 Dulany Street
Alexandria, VA 22313

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OFFICE OF PETITIONS

In re Application of	:	
Arthur E. Clark et al.	:	
Application No. 11/053,753	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 95,981	:	FROM RECORD

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 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott Boalick. Scott Boalick has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **OFFICE OF COUNSEL, CODE 004**
NAVAL SURFACE WARFARE CENTER, CARDEROCK DIVISION
9500 MACARTHUR BLVD.
WEST BETHESDA MD 20817

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

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OFFICE OF PETITIONS

In re Application of	:	
Keir C. Lauritzen et al	:	
Application No. 11/053,756	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 95807	:	

This is a decision on the petition under 37 CFR 1.182, filed June 5, 2006, to change the name of Inventor Angela M. Hodge-Miller to Angela Marie Hodge.

The petition is **GRANTED.**

Telephone inquiries concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

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OFFICE OF PETITIONS

DAYCO PRODUCTS, LLC
1 PRESTIGE PLACE
MIAMISBURG, OH 45342

In re Application of	:	
John Mobley, et al.	:	
Application No. 11/053,763	:	DECISION ON PETITION
Filed: February 8, 2005	:	TO WITHDRAW
Attorney Docket No. 04-09	:	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 June 26, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. 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: FLUID ROUTING SOLUTIONS, INC.
3000 TOWN CENTER
SUITE 2800
SOUTHFIELD, MI 48075

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ISHMAN LAW FIRM P.C.
P.O BOX 1297
HOLLY SPRINGS NC 27540-1297

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AUG 10 2009

OFFICE OF PETITIONS

In re Application of	:	
James F. MCNULTY, JR.	:	
Application No. 11/053,764	:	DECISION ON PETITION
Filed: February 08, 2005	:	
Attorney Docket No. **8171-04-09**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 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 23, 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 24, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office October 23, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 3754 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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DEAN D. SMALL
THE SMALL PATENT LAW GROUP LLP
225 S. MERAMEC, STE. 725T
ST. LOUIS, MO 63105

Mail Date: 04/20/2010

Applicant	: Kelly Lynn Piacsek	: DECISION ON REQUEST FOR
Patent Number	: 7574249	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/053,793	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **526** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STEVENS DAVIS LLP
1615 L STREET NW
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WASHINGTON DC 20036

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JUL 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
HIDAKA, et al.	:	
Application No. 11/053,838	:	DECISION ON PETITION
Filed: 02/10/2005	:	
Attorney Docket No. L8462.05107	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed May 8, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is GRANTED.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 7, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 7, 2007. On January 4, 2008, the Office mailed a Notice of Abandonment.

Petitioners assert that they did not receive the Notice of Allowance and Fee(s) Due.

A review of the written record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due and in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw

the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the master docket where the Notice would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the

records indicated that the Notice was not received at the correspondence address of record.[1] Accordingly, petitioners presented the required showing under 37 CFR 1.181.

In view of the above, the holding of abandonment is withdrawn and the application is restored to pending status.

This application is being referred to the Technology Center AU 2891 technical support staff for re-mailing the Notice of Allowance and Fee(s) Due of September 7, 2007. The period for paying the issue and publication fees will be reset to expire three (3) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: James E. Ledbetter
Dickinson Wright PLLC
1901 L Street, N.W., Suite 800
Washington, D.C. 20036-3506

[1] The Office notes that the docket records contain a notation indicating they were created at STEVENS DAVIS LLP, 1615 L STREET NW, SUITE 850, WASHINGTON DC 20036, which is currently listed as the correspondence address of record. However, the address on the petition differs from the address of record. If petitioner or practitioner wishes to receive mail at the address listed on the petition, a change of correspondence address should be submitted promptly. As a one-time courtesy, the Office is mailing a copy of this decision to the address indicated on the petition. Thereafter, all correspondence will continue to be mailed to the address of record unless the Office is properly notified otherwise.

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Yasushi Okabe et al	:	
Application No. 11/053,846	:	ON PETITION
Filed: February 10, 2005	:	
Attorney Docket No. 102464.06	:	

This is a decision on the petition, filed January 30, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2852 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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 :
Yasushi Okabe, et al. :
Application No. 11/053,846 : ON PETITION
Filed: February 10, 2005 :
Attorney Docket No.: 102464.06 :

This is a decision on the petition, filed May 15, 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 April 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2852 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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In re Application of	:	
Yasushi Okabe et al	:	
Application No. 11/053,846	:	ON PETITION
Filed: February 10, 2005	:	
Attorney Docket No. 102464.06	:	

This is a decision on the petition, filed October 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 25, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2852 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).