SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : February 07, 2008

TO SPE OF : ART UNIT 3749

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/059,904 Patent No.: 7107983 B1

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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: _____

STEVEN B. MCALLISTER
SUPERVISORY PATENT EXAMINER

AU 3749

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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HAUGEN LAW FIRM
SUITE 1130 - TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS MN 55402

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of
Berg et al.
Application No. 11/059,927
Filed: February 17, 2006
For: NANO-PARTICLE CORROSION INHIBITING FILMS

: Decision Granting
: Withdrawal of Patent
: Application Publication

This is a response to the applicant's request made on August 28, 2006, requesting withdrawal of the publication, which published on August 17, 2006, for the above identified application due to the USPTO incorrectly processing the Nonpublication Request submitted on filing. Applicant in effect, request that the above-identified application be treated as an application that has **not** been published pursuant to 35 U.S.C. § 122(b) on August 17, 2006.

The request based on the facts in this application is **granted** to the extent indicated below:

(1) The USPTO will withdraw the patent application publication for the above-identified application from its internal and external search databases for patent application publications;

(2) The USPTO's Patent Application Location and Monitoring (PALM) and Patent Application Information Retrieval (PAIR) Systems will be modified to indicate that copies of and access to the above-identified application are **not** to be provided pursuant to 37 CFR 1.14(1)(a)(ii) and 1.14(1)(a)(iii);

(3) The publication number will be added to a list of withdrawn publications on the USPTO web site; and

(4) The USPTO will notify external database providers and its patent data exchange partners which are intellectual property offices of the withdrawal.

The above-identified application has been published due to a processing error. Publication of this application was not provided for under 35 U.S.C. § 122(b) on August 17, 2006. Accordingly, no publication fee will be required if the above-identified application is allowed, unless the nonpublication request is rescinded.

If a Notice of Publication Fee Due (or a Notice of Allowance that requires a publication fee) is received by the applicant, applicant may submit a reply to the Notice stating that no publication fee is due because the application was published in error. The reply should be accompanied by a copy of this Letter.

Telephone inquiries specific to this decision should be directed to Mark Polutta at (571) 272-7709.

Robert W. Bahr
Senior Patent Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HAUGEN LAW FIRM
SUITE 1130 - TCF TOWER
121 SOUTH EIGHTH STREET
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Robert Berg	: DECISION ON REQUEST FOR
Patent Number	: 7588820	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/059,927	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **991** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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STEVEN S. PAYNE
ARATOR IP LAW GROUP PLLC
SUITE 1005
1101 17TH STREET N.W.
WASHINGTON DC 20036

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of
David Ulmert
Application No.11/059,944
Filed: February 17, 2005
Attorney Docket No. 150-249

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice mailed July 12, 2007, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1643 for appropriate action by the Examiner in the normal course of business on the reply received December 10, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JACKSON WALKER LLP
901 MAIN STREET
SUITE 6000
DALLAS TX 75202-3797

MAILED

JAN 12 2010

OFFICE OF PETITIONS

In re Application of
Robert F. Hofmann
Application No. 11/059,947
Filed: February 17, 2005
Attorney Docket No. **103336.00024**
(TORQ-0005)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36(b), filed November 6, 2009.

The request is **NOT APPROVED**.

The request cannot be approved because the change of correspondence address is considered improper.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the 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 inquires concerning this decision should be directed to the undersigned at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK, NY 10166

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DEC 03 2008

In re Application of	:	
Chan et al.	:	
Application No. 11/059,999	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. 104424.020101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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, March 14, 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 15, 2008. A Notice of Abandonment was mailed October 2, 2008.

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

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

Further, the Power of Attorney filed November 12, 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 3693 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosed: Notice of Acceptance of Power of Attorney

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of

FRANKARD, Valerie et al.
Application No. 11/060,029
Filed: February 17, 2005
Attorney Docket No. **4559-045800**

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 25, 2008.

The request is **APPROVED**.

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

The request was signed by Kirk Miles on behalf of all attorneys of record who are associated with customer No. 28289. All attorneys/agents associated with the Customer Number 28289 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed January 22, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **VALERIE FRANKARD**
BIERENBERG 47
1640 SINT-GENESIUS-RODE
BELGIUM

cc: **BARBARA E. JOHNSON**
ATTORNEY AT LAW
555 GRANT STREET SUITE 323
PITTSBURGH, PA 15219

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

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OCT 0 6 2008

OFFICE OF PETITIONS

In re Patent No. 7,248,109
Application No. 11/060,052
Filed: February 16, 2005
Issued: July 24, 2007
Attorney Docket No. 07360-1006

ON PETITION

This is a decision on the requests filed December 6, 2007 and August 22, 2008, which are being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Further, the address given on the petition differs from the address of record. 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.

Additionally, petitioner has submitted duplicate Certificates of Correction fees of $100.00 each and no fee for the petition surcharge of $130.00. Therefore, petitioner will be charged the difference of $30.00 to satisfy the total charges. These charges will be charged to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Paul Davis
Goodwin|Procter LLP
135 Commonwealth Drive
Menlo Park, California 94025

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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
11/060,071	02/16/2005	2812	0.00	MKSI.67US01	1	8	3

CONFIRMATION NO. 6373

CORRECTED FILING RECEIPT

OC000000016237503

Cochran Freund & Young LLC
Suite 201
2026 Caribou Drive
Fort Collins, CO 80525

Date Mailed: 06/09/2005

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

Youfan Gu, Superior, CO;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/060,071

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

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for preventing products of TiCL4 and NH3 or other feed gas reactions from

damaging vacuum pumps in TiN or other deposition systems

Preliminary Class

438

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

GRANTED

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

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

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

NOT GRANTED

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

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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI MI 48375

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Reis, Mike	:	
Application No. 11/060,079	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. EOD-140-A	:	

This is a decision on the petition under 37 CFR §1.102(d), filed February 24, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an 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 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.

This matter is being referred to the Technology Center Art Unit 3637 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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Pauly, Devries, Smith & Deffner, LLC
Plaza VII – Suite 3000
45 South Seventh Street
Minneapolis, MN 55402-1630

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JAN 3 1 2008
OFFICE OF PETITIONS

In re Application of
David A. Dikken et al.
Application No. 11/060,080
Filed: February 16, 2005
Attorney Docket No. 758.1681USU1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed January 26, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 27, 2007. A Notice of Abandonment was mailed on August 20, 2007.

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

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

This application is being referred to Technology Center AU 2856 for appropriate action by the Examiner in the normal course of business on the reply received November 19, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/060,080	02/16/2005	David A. Dikken	758.1681US1

CONFIRMATION NO. 6379

POA ACCEPTANCE LETTER

57557
PAULY, DEVRIES SMITH & DEFFNER, L.L.C.
Plaza VII-Suite 3000
45 South Seventh Street
MINNEAPOLIS, MN 55402-1630

OC000000027746158

Date Mailed: 01/16/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/19/2007.

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.

/kainabinet/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/10/07

Paper No.: —

TO SPE OF : ART UNIT 3725

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/060082 Patent No.: 7080542 B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3725

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAUBVOGEL LAW OFFICE/
AVAYA INC.
820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

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MAR 1 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark D. KLEIN, et al	:	
Application No. 11/060,085	:	DECISION ON PETITION
Filed: February 16, 2005	:	TO WITHDRAW
Attorney Docket No. AVA10032	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 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 Amir H. Raubvogel on behalf of all the attorney/agents of record.

All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the 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 outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MARK D. KLEIN
1192 ST. ANTHONY CT.
LOS ALTOS, CA 94024

JASON DEMONT, ESQ.
DEMONT & BREYER, LLC
100 COMMONS WAY, SUITE 250
HOLMDEL, NJ 07733

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RUSSELL BINNS
AVAYA INC.
IM-344
307 MIDDLETOWN-LINCROFT ROAD
LINCROFT, NJ 07738

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MAR 1 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark D. KLEIN, et al	:	
Application No. 11/060,085	:	DECISION ON REQUEST FOR
Filed: February 16, 2005	:	REVOCATION OF POWER
Attorney Docket No. AVA10032	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed January 17, 2008.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h). For the assignee to take action a proper statement under § 3.73(b) is required.

The request cannot be approved because the statement under 3.73(b) is not proper.

All future communications from the Office will be directed to the first named signing inventor until otherwise notified by applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DEMONT & BREYER, LLC
100 COMMONS WAY, STE. 250
HOLMDEL, NJ 07733

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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
11/060,085	02/16/2005	Mark D. Klein	AVA10032

CONFIRMATION NO. 6392

POWER OF ATTORNEY NOTICE

70939
RAUBVOGEL LAW OFFICE / AVAYA INC.
820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

OC000000028937968

Date Mailed: 03/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/05/2007.

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

/dcgoodwyn/

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/01/09

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/060,088 Patent No.: 7,094,397

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

Should the changes Be made?

Valerie Jackson
Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

SPE — 1623 Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/6/09

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11060088 Patent No.: 7094397

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: The correction of the university name has been approved.

/S. A. Jiang/ — **SPE**

1623 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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SEP 1 2 2006
OFFICE OF PETITIONS

In re Application of Flavio Deroma Application No. 11/060,097 Filed: February 17, 2005 Title: Toilet Bowl Brush with Fluid Dispenser	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed July 31, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on December 5, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A one month extension of time was obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 6, 2006. A Notice of Abandonment was mailed on June 14, 2006.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

A review of the record shows that examination of the RCE and amendment continued without the revival of the abandoned application. A Notice of Allowance and Notice of Allowability were mailed on August 9, 2006. The Issue and Publication fees were submitted on August 24,2006.

Accordingly, the application is being forwarded to the Office of Patent Publication for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of :
Flavio Deroma :
Application No. 11/060097 :
Filing or 371(c) Date: 02/17/2005 :
Patent No.: 7131783 :
Issue Date: 11/07/2006 :
Title of Invention: TOILET BOWL BRUSH :
WITH FLUID DISPENSER :

This is a decision on the "Petition to Correct Assignee Under 37 CFR 3.81(b) [1]," filed December 19, 2006, requesting a change in the assignee data after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **dismissed**.

Applicant files the present petition to correct the assignee data to list Kaminstein Imports, Inc., as the assignee of record. Patentee authorizes this Office to charge the Certificate of Correction Fee; Processing Fee and any additional fees to deposit account 06-0515.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter. (Emphasis supplied).

Analysis and conclusion

Applicant is advised that this Office is unable to charge the processing fee to Petitioner's deposit account due to insufficient funds available in the deposit account.

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a processing fee on filing each petition for a patent to be corrected to state the name of the assignee, $130.

The petition in the above-identified application was not accompanied by payment of the required processing fee. No consideration on the merits can be given the petition until the required fee is received.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

PAGE 1/5 * RCVD AT 8/10/2007 1:27:23 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/3 * DNIS:2738300 * CSID:212 532 8598 * DURATION (mm-ss):01-04

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FELDMAN LAW GROUP, P.C.
12 EAST 41ST STREET
NEW YORK, NEW YORK 10017
(212)532-8585
Fax: (212)532-8598

LONG ISLAND OFFICE
120 MAIN STREET (ROUTE 25A)
HUNTINGTON, NEW YORK 11743

PATENT AND TRADEMARK LAW

FACSIMILE COVER SHEET[1]

TO: Office of Petitions

Fax#: 571-273-8300

FROM: Philip Kouyoumdjian

Applicant: Flavio Deroma

For: TOILET BOWL BRUSH WITH FLUID DISPENSER

Patent No.: 7,131,783

Application No.: 11/060,097

Issue Date: 11/07/2006

Number of pages (including cover sheet): 5

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THEIR AGENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE SO THAT WE CAN ARRANGE FOR THE RETRIEVAL OF THE DOCUMENTS AT NO COST TO YOU. THANK YOU.

08/10/2007 12:33 FAX 212 532 8598 FELDMAN LAW GROUP 001/005

PAGE 2/5 * RCVD AT 8/10/2007 1:27:23 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/3 * DNIS:2738300 * CSID:212 532 8598 * DURATION (mm-ss):01-04

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Flavio Deroma
Serial No.	:	11/060,097
Filed	:	February 17, 2005
For	:	Toilet Bowl Brush With Fluid Dispenser
Issue Date	:	November 7, 2006

Twelve East 41st Street
Suite 701
New York, NY 10017
Tel. (212) 532-8585

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

Sir:

The following is in response to the enclosed decision on the "Petition to Correct Assignee Under 37 CFR 3.81(b).

The Petition was dismissed because of insufficient funds available in the deposit account number 06-0515.

Please be advised that the above account has been replenished. Petitioner therefore resubmits its Petition.

The Director for Patents is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 06-0515.

Respectfully submitted,
Feldman Law Group, P.C.

08/10/2007 12:33 FAX 212 532 8598 FELDMAN LAW GROUP 002/005

PAGE 3/5 * RCVD AT 8/10/2007 1:27:23 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/3 * DNIS:2738300 * CSID:212 532 8598 * DURATION (mm-ss):01-04

By: _____
Philip Kouyoumdjian
Reg. No. 56,397
(212) 532-8585

08/10/2007 12:33 FAX 212 532 8598 FELDMAN LAW GROUP 003/005

PAGE 4/5 * RCVD AT 8/10/2007 1:27:23 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/3 * DNIS:2738300 * CSID:212 532 8598 * DURATION (mm-ss):01-04

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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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In re Application of
Flavio Deroma
Application No. 11/060097
Filing or 371(c) Date: 02/17/2005
Patent No.: 7131783
Issue Date: 11/07/2006
Title of Invention: TOILET BOWL BRUSH WITH FLUID DISPENSER

This is a decision on the "Petition to Correct Assignee Under 37 CFR 3.81(b)[1]," filed December 19, 2006, requesting a change in the assignee data after payment of the issue fee. The delay in treating this petition is regretted.

The Petition is **dismissed**.

Applicant files the present petition to correct the assignee data to list Kaminstein Imports, Inc., as the assignee of record. Patentee authorizes this Office to charge the Certificate of Correction Fee; Processing Fee and any additional fees to deposit account 06-0515.

Applicable Law, Rules and MPEP

37 CFR 3.81(b) provides:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17 (i) of this chapter. (Emphasis supplied).

Analysis and conclusion

Applicant is advised that this Office is unable to charge the processing fee to Petitioner's deposit account due to insufficient funds available in the deposit account.

[1] See, 1283 OG 148 22 June 2004, 69 Fed. Reg. 29865 26 May 2004

08/10/2007 12:33 FAX 212 532 8598 FELDMAN LAW GROUP 004/005

PAGE 5/5 * RCVD AT 8/10/2007 1:27:23 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/3 * DNIS:2738300 * CSID:212 532 8598 * DURATION (mm-ss):01-04

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The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a processing fee on filing each petition for a patent to be corrected to state the name of the assignee, $130.

The petition in the above-identified application was not accompanied by payment of the required processing fee. No consideration on the merits can be given the petition until the required fee is received.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

08/10/2007 12:33 FAX 212 532 8598 FELDMAN LAW GROUP 005/005

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JUL 18 2005

Director's Office
Group 3700

William L. Krayer
Attorney at Law
1771 Helen Drive
Pittsburgh, PA 15216

In re application of
William L. Krayer

Serial Number: 11/060,101
Filed: February 17, 2005

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

For: **TURNTABLE WITH TURNING GUIDE**

This is a decision on the petition filed on February 17, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 7/14/05

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PAUL J WHITE, SENIOR COUNSEL
NATIONAL RENEWABLE ENERGY LABORATORY (NREL)
1617 COLE BOULEVARD
GOLDEN, CO 80401-3393

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OFFICE OF PETITIONS

In re Application of
Levi
Application No. 11/060,111
Filed: February 17, 2005
Attorney Docket No. 04-22

Decision on Petition

This is a decision on the petition filed April 18, 2005, to accord the above-identified application a filing date of February 17, 2005, and to establish 8 sheets of drawings were part of the originally filed application.

On April 5, 2005, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

In response, the present petition was filed alleging that 8 sheets of drawings were deposited on February 17, 2005. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 8 sheets of drawings on February 17, 2005.[1]

Upon review of the record, the drawings deposited on February 17, 2005, have not been located. However, the evidence is convincing that the application papers deposited on February 17, 2005, included 8 sheets of drawings, and that the sheets were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of February 17, 2005.

In view of the above, the petition is **granted**. The copy of the drawing sheets submitted with the petition will be used for examination purposes.

No petition fee is required and none has been charged.

The Notice mailed April 5, 2005, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will process the file with a filing date of February 17, 2005, using the application papers filed on February 17, 2005, and the copy of 8 sheets of drawings filed on April 18, 2005.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

---

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OCT 17 2005

PRESTON GATES & ELLIS LLP
1900 MAIN STREET, SUITE 600
IRVINE CA 92614-7319

In re Application of	:
Chauncey B. Sayre et al	:
Serial No.: 11/060,131	: PETITION TO MAKE SPECIAL
Filed: February 16, 2005	:
Attorney Docket No.: 41314-00010	:

This is in response to the petition filed February 16, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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OFFICE OF PETITIONS

In re Application of	:	
Rangarajan Sampath et al.	:	
Application No. 11/060,135	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. IBIS0074-100 (DIBIS-0057US)	:	FROM RECORD

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 26, 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 Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on January 3, 2006 and resubmitted on March 28, 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: Casimir Jones, S.C.
440 Science Drive
Suite 203
Madison, WI 53711

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DOUGLAS L. WATHEN
GIFFORD, KRASS, GROH, SPRINKLE, ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

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APR 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Walker, Paul N.	:	
Application No. 11/060,136	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. PST-12102/36	:	

This is a decision on the petition filed March 21, 2005, requesting that the above-identified application be accorded a filing date of February 17, 2005, rather than the presently accorded date of February 18, 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 17, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 339616882 US showing a handwritten "date-in" of "February 17, 2005". The same Express Mail receipt number appears on the original "Transmittal for Patent Application." The Express Mail label number also appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated February 17, 2005 on the cover page for the application papers. Additionally, applicant has submitted copy of the Track & Confirm record showing that the package in question was accepted on February 17, 2005, at 6:00 p.m. in Detroit, MI.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on February 17, 2005.

The petition is **GRANTED**.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 17, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center AU 1724 for examination in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

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

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

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

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Carlos E. Collazo	: DECISION ON REQUEST FOR
Patent Number	: 7618420	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,154	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **678** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

Colin P. Abrahams
Suite 400
5850 Canoga Avenue
Woodland Hills CA 91367

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FEB 14 2008
OFFICE OF PETITIONS

In re Application of	:	
Yang et al.	:	DECISION ON PETITION
Application No. 11/060,156	:	
Filed: February 17, 2005	:	
Atty Docket No. 1201-114.US	:	

This is a decision on the Request for Reinstatement filed October 9, 2007, which is properly treated as a no-fee Petition to Withdraw Holding of Abandonment under 37 CFR 1.181.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed March 21, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered filed and no extension of time considered obtained, the application became abandoned effective June 22, 2007. A courtesy Notice of Abandonment was mailed on October 1, 2007.

In response, applicant promptly filed the instant petition. Petitioner maintains that applicant filed a Response on September 21, 2007 together with a Petition and fee for a three-month extension of time. Petitioner encloses a copy of the full Response. Petitioner states that the Response included a Certificate of Mailing that it was deposited with the U.S. Postal Service on September 21, 2007. In support thereof, petitioner also submitted a copy of their itemized and date-stamped return postcard acknowledging receipt of a response on September 25, 2007.

Petitioner's evidence has been reviewed, and is persuasive that applicant met the requirements of 37 CFR 1.8(b) to have the response considered timely filed. Nonetheless, consideration of their evidence is unnecessary. Their response, including an extension of time and certificate of mailing, is present in the application with a date of receipt of September 25, 2007.

Further, the three-month extension of time, required to make the response timely, was previously received and made of record in the accounting records for this application on September 25, 2007.

Accordingly, the Notice of Abandonment mailed October 1, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2612 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response timely filed on September 25, 2007 (with certificate of mailed dated September 21, 2007).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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SEAN KAUFHOLD
P O BOX 89626
SIOUX FALLS, SD 57109

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FEB 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Jerome G. Colbourne	:	
Application No. 11/060,160	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. CUT 252	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before July 7, 2006, as required by the Notice of Allowance and Fee(s) Due mailed April 7, 2006. A Notice of Abandonment was mailed on August 7, 2006.

The rule at 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 will be construed as the statement required by 37 CFR 1.137(b)(3). If this is an incorrect reading of the statement, petitioner must promptly notify the 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 payment of the $700 issue fee, (2) the $750 petition fee; and (3) an adequate statement of unintentional delay have been received. Accordingly, the issue fee are accepted as having been unintentionally delayed.

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

The application file is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/060,200	02/17/2005	David Michael Kurn	200301976-2 (2162-31401)	3528

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

EXAMINER
DAVIS, ZACHARY A

ART UNIT	PAPER NUMBER
2137	

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.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment Date: 04/14/2008 DTERRY 11060200
02/22/2005 SDIRETA1 00000039 082025
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

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MCHALE & SLAVIN, P.A.
2855 PGA BOULEVARD
PALM BEACH GARDENS, FL 33410

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JAN 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert L. Diaz et al	:	
Application No. 11/060,206	:	DECISION ON PETITION
Filed: February 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2682U.005	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 19, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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

The instant petition does not include evidence that the applicant (Robert Diaz) is 65 years of age or more.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3733 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

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AUG 2 9 2008

In re Application of :
James A. Raszkowski, et al. :
Application No. 11/060,227 : ON PETITION
Filed: February 17, 2005 :
Attorney Docket No. GP-305005-PTA-CD :

This is a decision on the petition under 37 CFR 1.137(b), filed May 13, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 12, 2007. This decision precedes the mailing of a Notice of Abandonment. On May 13, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) pursuant to 37 CFR 1.114 and fee of $810; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2834 for further processing the RCE 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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Raubvogel Law Office/Avaya Inc.
820 Lakeview Way
Redwood City, CA 94062

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Mark D. Klein et al.	:	
Application No. 11/060,232	:	DECISION ON PETITION
Filed: February 16, 2005	:	TO WITHDRAW
Attorney Docket No. AVA9193	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 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 Amir H. Raubvogel on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mark D. Klein**
1192 St. Anthony Court
Los Alto, CA 94024

cc: **Jason DeMont, Esq.**
DeMont & Breyer, LLC
100 Commons Way, Suite 250
Holmdel, NJ 07733

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	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/060,232	02/16/2005	Mark D. Klein	AVA9193

CONFIRMATION NO. 7930

POWER OF ATTORNEY NOTICE

70939
RAUBVOGEL LAW OFFICE / AVAYA INC.
820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

OC000000028897245

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/05/2007.

- 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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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606

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DEC 1 0 2009

OFFICE OF PETITIONS

In re Application of	:	
P.G. MADHAVAN et al.	:	
Application No. 11/060,290	:	DECISION ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. **30835/310865**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 06, 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). A two (2) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 07, 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 $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of November 06, 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 $1110 extension of time fee submitted with the petition on June 12, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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Hershkovitz & Associates, LLC
2845 Duke Street
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Dennis G. Thibedeau	: DECISION ON REQUEST FOR
Patent Number	: 7657386	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,323	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NELSON MULLINS RILEY & SCARBOROUGH LLP
1320 MAIN STREET, 17TH FLOOR
COLUMBIA, SC 29201

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APR 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Robert L. Arnold et al	:	
Application No. 11/060,342	:	DECISION GRANTING PETITION
Filed: February 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 17745/09019-CON	:	

This is a decision on the petition, filed April 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 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 3723 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\Apr9\060342.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), which includes the following language thereon: "The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee in 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 : 11/6/07

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/060347 Patent No: 7248952 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Thomas G. Black Jr.
SPE

3661
Art Unit

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STEVENS DAVIS MILLER & MOSHER LLP
1615 L STREET NW
SUITE 850
WASHINGTON, DC 20036

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of :
Cipriano Rizzetto :
Application No. 11/060,361 : DECISION ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. APV31854 :

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 17, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 17, 2007. Accordingly, the date of abandonment of this application is July 18, 2007. A Notice of Abandonment was mailed on August 21, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

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

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

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10363-A DEMOCRACY LANE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
SCHMID, Steven R.	:	
Application No. 11/060,377	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. **UNND-0051-UT1**	:	FROM RECORD
	:	

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 27, 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, (the applicant will handle directly), 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: **THE UNIVERSITY OF NOTRE DAME DU LAC**
511 MAIN BUILDING
NOTRE DAME, INDIANA 46556

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Francis Rigby et al.	:	
Application No. 11/060,382	:	DECISION ON PETITION
Filed: February 17, 2006	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 12867-2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 9, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the on of the applicants declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1655 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

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JUN 23 2010

OFFICE OF PETITIONS

In re Application of Higuchi	:	On Application For
Application No. 11/060,394	:	Patent Term Adjustment
Filing Date: February 17, 2005	:	
Attorney Docket No. Y1929.0105	:	

This is in response to the "Request for Reconsideration Under 37 C.F.R. 1.705(b) of Patent Term Adjustment Determination" filed January 27, 2010. Applicant submits the correct patent term adjustment to be indicated on the patent is one thousand eighty-seven (1087) days, not six hundred seventy-nine (679) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 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 § 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, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent,

the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[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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4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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MAY 08 2008

OFFICE OF PETITIONS

In re Application of	:	
Jay Dittmer	:	
Application No. 11/060,456	:	DECISION GRANTING PETITION
Filed: February 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3156.03US03	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 6, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3632 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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APR 1 8 2008

OFFICE OF PETITIONS

TRINIDAD K. DIXON
812 EAST SIXTH AVE.
TALLAHASSEE FL 32303

In re Application of George **Miller** :
Application No. 11/060,457 :
Filed: February 11, 2005 : DECISION ON PETITION
Attorney Docket No. :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-Final Office action mailed February 05, 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 above-identified application became abandoned on May 06, 2007.

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

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

This application is being referred to Technology Center AU 3617 for appropriate action by the Examiner in the normal course of business on the reply received.

Cheryl Butler

for David A. Bucci
Petitions Examiner
Office of Petitions

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BIRCH, STEWART, KOLASCH &
BIRCH, LLP
P. O. BOX 747
FALLS CHURCH VA 22040-0747

MAILED

MAY 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Johansson,et al.	:	
Application No. 11/060,463	:	ON APPLICATION FOR
Filed: February 18, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.085747-0473	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed March 31, 2009. Applicant requests that the determination of patent term adjustment be corrected from three hundred eighty-two (382) days to nine hundred one (901) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases

for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application is being forwarded to the Office of Data Management for issuance of the patent.

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

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Weitong Chuang	: DECISION ON REQUEST FOR
Patent Number	: 7630306	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,492	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **632** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant : Weitong Chuang
Patent Number : 7630306
Issue Date : 12/08/2009
Application No : 11/060,492
Filed : 02/18/2005

: 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 **667** 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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OFFICE OF PETITIONS

In re Application of	:	
Weitong Chuang et al	:	
Application No. 11/060,496	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 58268.00476	:	

This is a decision on the petition under 37 CFR 1.53(e)(2), filed April 29, 2005, requesting that the above-identified application be accorded a filing date of February 18, 2005, with Figures 2a, 2b, and 4 as part of the original disclosure.

The application was filed on February 18, 2005. On April 19, 2005, the Office of Initial Patent Examination mailed a "Notice Of Omitted Item(s) in A Nonprovisional Application (Notice)" stating that the application has been accorded a filing date of February 18, 2005, but that Figures 2a, 2b and 4 described in the specification appeared to have been omitted from the filed application.

In response, on April 29, 2005, the petition contends that the allegedly omitted drawings were filed with the application papers on February 18, 2005. In support, the petition is accompanied by a copy of a postcard receipt, indicating receipt in the USPTO for this application on February 18, 2005 of, *inter alia*, "Drawings (Formals - 7 sheets)." The petition also encloses a copy of drawings purportedly filed on February 18, 2005.

In view of the evidence presented, the Office concludes that the drawings of Figures 2a, 2b and 4 were filed on February 18, 2005, but were later misplaced. Accordingly, the petition is granted.

The $400.00 petition fee is being credited to Deposit Account No. 50-2222 as authorized.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of February 18, 2005, using the application papers filed on that date, and

the copy of drawing Figures 2a, 2b and 4 supplied with the present petition, and for indicating in the USPTO record that 7 sheets of drawings were present on filing.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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GERMANY

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OFFICE OF PETITIONS

In re Application of	:	
Rohrmeier et al.	:	DECISION ON PETITION
Application Number: 11/060500	:	
Filing Date: 02/18/2005	:	
Attorney Docket Number: 2155/US	:	
(037141.55865US)	:	

This is a decision on the petition filed on February 1, 2010, under 37 CFR 1.137(a),[1] to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

The application became abandoned on September 17, 2009, for failure to timely file a response to the non-final Office action mailed on June 16, 2009, which set a three (3)-month shortened

[1] A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 14, 2010.

Petitioner's counsel asserts that the delay in responding to the non-final Office action mailed on June 16, 2009 was unavoidable because the Office action never received. Petitioners assert that they did not learn that the application had become abandoned until receipt of the Notice of Abandonment mailed on January 14, 2010.

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

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

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

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The petition lacks item (3).

With regards to item (3), the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

---

[2] 35 U.S.C. § 133.

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[5] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

With regard to the allegation of non-receipt of the Office action mailed on June 16, 2009, a review of the record indicates no irregularity in the mailing of the non-final Office action mailed on June 16, 2009, and, in the absence of any irregularity in the mailing, there is a strong presumption that the non-final Office action mailed on June 16, 2009 was properly mailed to the address of record. This presumption may be overcome by a showing that the non-final Office action mailed on June 16, 2009, was not in fact received.
MPEP 711.03(c) states, in pertinent part:

---

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

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).

Petitioners have not provided a statement by the practitioner to the effect 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. Further, petitioners have not provided a copy of the docket 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.

Any renewed petition should be accompanied by the items listed above.

In summary, petitioner's argument has been considered, but is not persuasive. In the absence of the information required above, petitioners have failed to provide convincing evidence that the non-final Office action was not received, nor have petitioners shown that the delay in filing a reply was unavoidable. In this respect, petitioner asserts unavoidable delay because the Notice

to File Missing Parts of Nonprovisional Application mailed on November 13, 2008 was never received. As stated above, petitioner's showing that the non-final Office action mailed on June 16, 2009, was never received is lacking because the requirements set forth in MPEP 711.03(c) to establish that an Office communication was never received have not been met. Therefore, the petition must be dismissed.

If petitioner is unable to provide the showing above, petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

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

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

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

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

A reply may also be filed using the EFS-Web System of the USPTO.

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

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MANN+HUMMEL GMBH
DEPARTMENT VR-P
HINDENBURGSTR. 45
LUDWIGSBURG 71638
GERMANY

MAILED
JUL 19 2010
OFFICE OF PETITIONS

In re Application of	:	
Rohrmeier et al.	:	DECISION ON PETITION
Application Number: 11/060500	:	
Filing Date: 02/18/2005	:	
Attorney Docket Number: 2155/US	:	
(037141.55865US)	:	

This is a decision on the petition filed on April 21, 2010, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is GRANTED

The application became abandoned on September 17, 2009, for failure to timely file a response to the non-final Office action mailed on June 16, 2009, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 14, 2010. The petition under 37 CFR 1.137(a) filed on February 1, 2010, was dismissed on April 14, 2010.

---

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

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

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

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

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

Receipt of the amendment filed on February 1, 2010 is acknowledged as the required reply.

The address in the petition is different than the correspondence address of record. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is referred to Technology Center Art Unit 1791 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: JAMES R. HASSELBECK
6468 LAKE ROAD
MILLINGTON MI 48746

UNITED STATES PATENT AND TRADEMARK OFFICE

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Matsushima et al :
Application No. 11/060,554 :
Filed: February 18, 2005 :
Attorney Docket No. 20005-0255 :
Title of Invention: Content Distribution System and Reference Server :

ON PETITION

This is a decision on the petition under 37 CFR §1.181 filed December 19, 2005 to withdraw the holding of abandonment.

This application was held abandoned August 28, 2005 for failure to timely reply to the non-final Office Action mailed on May 27, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed December 9, 2005.

Petitioner maintains that a response to the non-final Office Action was mailed and received in the Office on July 8, 2005. A review of the documents submitted on petition which includes a transmittal form, amendment, terminal disclaimer, copy of check for terminal disclaimer, and postcard receipt shows all correspondence submitted contain the incorrect application number. The documents all reference application no.11/060,544 but the correct application number is 11/060,554. The amendment did contain the correct art unit, name of the examiner, attorney docket number, confirmation number filing date and title of invention. In support of petitioner's contention that a response was timely submitted to the Office Action, petitioner has submitted a copy of a stamped post card receipt and a copy of the response.

The response submitted July 8, 2005 has not been located in the Office. Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

The requirements for a grantable petition under 37 CFR §1.181 have been met. This petition is hereby **Granted**.

This application is being forwarded to the Technology Center 3600 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BIRCH, STEWART, KOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

In re Application of Wensbo et al. :
Application No. 11/060,560 :
Filing Date: February 18, 2005 :
Attorney Docket No. 5998-0505PUS2 :

On Application For
Patent Term Adjustment

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d) filed May 11, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is seven hundred thirty-three (733) days, not four hundred sixty-five (465) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 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 § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the

issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[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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P.O. Box 1450
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FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Jalaj Arora et al	:	DECISION ON PETITION
Application No. 11/060,561	:	TO WITHDRAW
Filed: February 18, 2005	:	FROM RECORD
Attorney Docket No. 5999-0525PUS2	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 2, 2005.

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

While an attorney or agent at Foley and Lardner LLP submitted the above-identified application, a review of the official file record indicates that Stephen A. Bent and those practitioners associated with Customer No. 22428 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 be directed to Customer No. 54080, which was given power of attorney on October 18, 2005 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).

This matter is being referred to Technology Center AU 1626 for examination in due course.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
8110 GATEHOUSE ROAD, SUITE 500 EAST
FALLS CHURCH, VA 22040-0747

OIPE
MAY 1 6 2004
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
WASHINGTON, DC 20231
www.uspto.gov

MAY - 6 2004

In re Application of	:	
John A. Gelardi *et al*	:	DECISION ON PETITION
Application No. 10/259,341	:	
Filed: September 27, 2002	:	
Attorney Docket No. 103.0020		
AGI 02-2		

This is a decision on the petition to make special filed on February 19, 2004. The $130.00 petition fee has been received.

The petition is granted.

The petition to make special is based upon the existence of an actual infringement. A review of the petition shows that all of the requirements established in MPEP § 708.02(II) for a petition on that grounds have been satisfied. Therefore, petitioner is entitled to have this application handled special in accordance with MPEP 708.02, subsection styled "Handling of Petitions to Make Special".

Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The application is being forwarded to the Supervisory Patent Examiner of Patent Examining Art Unit 3728, who will forward the application to the examiner for action consistent with this Decision.

PETITION GRANTED.

Stephen Marcus, Special Program Examiner,
Patent Examining Groups 3710 and 3720

Priest & Goldstein, PLLA
5015 Southpark Drive
Suite 230
Durham, NC 27713-7736

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J.B. KRAFT
710 COLORADO STREET #5C
AUSTIN, TX 78701

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APR 07 2010

OFFICE OF PETITIONS

In re Application of :
Jason Michael Parker et al :
Application No. 11/060,607 :
Filed: February 17, 2005 :
Attorney Docket No. AUS920040843US1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2010, to revive the above-identified application.

The petition is **GRANTED.**

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief was not filed within two (2) months of the Notice of Appeal filed May 5, 2009, 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 6, 2009. See MPEP 1215.04.

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

This matter is being referred to Technology Center AU 2173 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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JUL 22 2008

In re Application of	:	
KOCH et al.	:	
Application No. 11/060,637	:	ON PETITION
Filed: 02/17/2005	:	
Attorney Docket No. 054821-8020	:	

This is a decision on the petition filed March 14, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment, or in the alternative, under 37 CFR 1.137(a) to revive the above-identified application.

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

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

On September 21, 2007, the Office mailed a Notice of Allowability which set a three month statutory period for reply to avoid abandonment. The above-identified application became abandoned by operation of law on December 22, 2007. On January 16, 2008, the Office mailed a Notice of Abandonment.

Petition under 37 CFR 1.181

In the present petition, petitioner asserts that the Notice of Abandonment was sent in error because the Office never issued a requirement for changes to the drawings. Petitioner avers that the holding of abandonment should be withdrawn because there was no need to submit corrected drawings.

Applicants' submit the following statements of fact in support of this Petition:

1. Applicants' representative received on September 24, 2007, a Notice of Allowance and Fee(s) Due, including a Notice of Allowability (PTO-37) (Exhibit 2). The Notice required the payment of the Issue and Publication fees by the three month deadline of December 21, 2007. The Notice also indicated that Corrected Drawings be submitted.

> The Notice *stated "including changes required by the attached Examiner's /Comment or in the Office Action of Paper No./Mail Date 09/12/2007".*
>
> 2. The Examiner's Amendment (Exhibit 3) received with the Notice of Allowability did not indicate any requirement for replacement drawings to be submitted. Upon review of the USPTO's records for the noted application available on the USPTO PAIR website, there was no reference to an Office Action mailed September 12, 2007. Copies of the various PAIR website screens are attached (Exhibit 4).
>
> 3. The application and docket records of Foley and Lardner LLP has been searched and there is no record that an Office Action, or any other Notice requesting, corrected drawings or drawings changes, was ever received. A copy of the incoming PTO Mail Log showing all mail received from the US Patent and Trademark Office for the period of September 12, 2007 - October 2, 2007 (Exhibit 5) is attached.
>
> The Notice of Abandonment stated that the application is abandoned for failure to file corrected drawings. Yet a Notice or Office Action indicating that drawing corrections were required was never received and, thus no corrected drawings are needed.

Petition, p. 2.

Pursuant to 37 CFR 1.135:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment [37 CFR 1.153(a)] must include such complete and proper reply as the condition of the application may require...

In this instance, petitioner did not respond to the Notice of Allowability within the three-month statutory period in accordance with 37 CFR 1.135. Consequently, the application became abandoned for failure to timely respond to the outstanding Notice of Allowability. The Office reminds petitioner that it was petitioner's responsibility to timely submit a response to the Notice of Allowability to save the application from abandonment. Even if petitioner questioned the accuracy of the Notice of Allowability, petitioner was required to file either an appropriate reply to the Notice or a statement setting forth any believed errors in the Notice.

While this is an unfortunate situation, the Office is nonetheless precluded from granting the requested relief. The responsibility was that of petitioner to submit a timely written response to the Notice of Allowability, and petitioner failed so to do.[1] As such, the showing of record is that the

---

[1] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994) (while the Office attempts to notify applicants of deficiencies in their responses in a manner

abandonment resulted from the failure of petitioner to respond to the Notice of Allowability rather than an error on the part of the USPTO. Accordingly, the application is properly held abandoned.

Petition under 37 CFR 1.137(a)

In light of the facts specific to this case, petitioner has met the requirements under 37 CFR 1.137(a). Petitioner has supplied (1) the required reply; (2) an authorization to charge the petition fee to the Deposit Account; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

The $510.00 petition fee will be charged to the Deposit Account as authorized.

This matter is being referred to the Office of Data Management for issuance of a patent.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

---

permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

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United States Patent and Trademark Office
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O''Melveny & Myers LLP
IP&T Calendar Department LA-13-A7
400 South Hope Street
Los Angeles, CA 90071-2899

Mail Date: 04/20/2010

Applicant	: Nikhilesh N. Singh	: DECISION ON REQUEST FOR
Patent Number	: 7658945	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,641	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/16/2005	: 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.

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Raubvogel Law Office/Avaya Inc.
820 Lakeview Way
Redwood City, CA 94062

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MAR 1 8 2008

OFFICE OF PETITIONS

In re Application of :

Mark D. Klein et al. :
Application No. 11/060,642 : DECISION ON PETITION
Filed: February 16, 2005 : TO WITHDRAW
Attorney Docket No. AVA10031 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 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 Amir H. Raubvogel on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mark D. Klein**
1192 St. Anthony Court
Los Alto, CA 94024

cc: **Jason DeMont, Esq.**
DeMont & Breyer, LLC
100 Commons Way, Suite 250
Holmdel, NJ 07733

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/060,642	02/16/2005	Mark D. Klein	AVA10031

CONFIRMATION NO. 8458

POWER OF ATTORNEY NOTICE

70939
RAUBVOGEL LAW OFFICE / AVAYA INC.
820 LAKEVIEW WAY
REDWOOD CITY, CA 94062

OC000000028898306

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/05/2007.

- 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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QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

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MAR 17 2008

In re Application of

ALBERTSON, Donna G.
Application No. 11/060,644
Filed: February 16, 2005
Attorney Docket No. **407E-001010US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 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 Jonathan Alan Quine on behalf of all attorneys of record who are associated with customer No. 22798. 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 is an outstanding Office action mailed March 03, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DONNA G. ALBERTSON**
1098 VIA ROBLE
LAFAYETTE, CA 94549

cc: **BEYER WEAVER LLP**
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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.

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Johns et al.	:	
Application No. 11/060,646	:	ON APPLICATION FOR
Filed: 02/17/2005	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
2332-2-011N	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed on February 1, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is 646 days, not 145 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.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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, 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.

Applicants state that the patent is not subject to a terminal disclaimer.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Thomas J. Perkowski, Esq., P.C.
Soundview Plaza
1266 East Main Street
Stamford CT 06902

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OFFICE OF PETITIONS

In re Application of	:	
Martin, et al.	:	
Application No. 11/060,647	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 108-136USANA0	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Mr Sborllini is no longer a member of the firm nor is he involved in anyway with prosecution of the present application", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMAS J. PERKOWSKI ESQ., P.C.
SOUNDVIEW PLAZA
1266 EAST MAIN STREET
STAMFORD, CT 06902

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of	:	
William Martin, et al.	:	
Application No. 11/060,647	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 108-136USANA0	:	FROM RECORD
	:	

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 23, 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, "Mr. Sbrollini, is no longer a member of the firm nor is he involved in any way with the prosecution of the present application", do not meet any the conditions set forth in 37 CFR 10.40.

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

There 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE, CA 95110

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AUG 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,458,266 :
Issued: February 3, 2009 :
Application No. 11/060,650 : ON PETITION
Filed: February 16, 2005 :
Attorney Docket Number: M-16810 US :

This is a decision on the petition filed January 15, 2009, under 37 CFR 3.81(b)[1], to correct the assignee's name on the front of the Patent.

The petition is **GRANTED**.

Petitioner states that the name of the assignee is ACELLENT TECHNOLOGIES, INC., and was inadvertently not included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the name of the assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

Office assignment records reflect that ACELLENT TECHNOLOGIES, INC., is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to issue.

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[1] *See* Official Gazette of June 22, 2004

The petition fee and the fee for the certificate of correction have been charged to petitioner's deposit account.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3212. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This file is being referred to the Certificates of Correction Branch for issuance of a certificate of correction.

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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OFFICE OF PETITIONS

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

In re Patent No. 7,447,347	: DECISION ON APPLICATION FOR
Issued: November 4, 2008	: PATENT TERM ADJUSTMENT
Application No. 11/060,655	:
Filed: February 17, 2005	:
Dkt. No.: 17730-055001	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 CFR 1.705(d)", filed January 2, 2009.

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

The above-identified application matured into US Patent No. 7,447,347 on November 4, 2008. The patent issued with an adjustment of 650 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 650 days to 908 days.

The adjustment of 674 days under 37 CFR 1.702(a)(1) is not in dispute. The reduction of 17 under 37 CFR 1.704(b) is not in dispute. The reduction of seven days 37 CFR 1.704(c)(8) is not in dispute.

Instead, patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.703(b), of 258 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 674 days do not overlap (the 258 days does not include a three day overlap acknowledged by patentees).

The 258-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 17, 2005, and the patent having been issued on November 4, 2008, three years and 258 days later, notwithstanding the three day overlap. Patentees assert that in addition to this 258-day period, they are entitled to a

period of adjustment due to examination delay pursuant to 37 CFR 1.702(a)(1) of 674 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay (674 days) reduced by the period of applicant delay (24 days).

Patentees do not dispute that the total period of Office delay is the sum of the period of three years delay (261 days) and the period of examination delay (674 days), to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that only three days of the three year delay period of 261 days overlaps with the period of examination delay of 674 days. Accordingly, patentees submit that the total period of adjustment for Office delay is 932 days, which is the sum of the period of three year delay (261 days) and the period of Examination Delay (674 days), reduced by the period of overlap (three days). As such, patentees assert entitlement to a patent term adjustment of 908 days (261 days *plus* 674 days *less* three overlap days *less* 24 days of applicant delay).

The Office agrees that as of the issuance of the patent on November 4, 2008, the application was pending three years and 261 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 674 days is correct. At issue is whether patentees should accrue 261 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 674 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 261 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See, Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule, 65 Fed. Reg. 56366 (Sept. 18, 2000). See, also, Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See, also, Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A), 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C.

154(b)(2)(A), the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

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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 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 17, 2005, to the date the patent issued on November 4, 2008. Prior to the issuance of the patent, 674 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 261 days for Office delay in issuing the patent overlap with the 674 days of Office delay. During that time, the issuance of the patent was delayed by 674 days. The Office did not delay 674 days and then delay an additional 261 days. Accordingly, 674 days of patent term adjustment (not 674 days and 261 days) was properly entered because the period of delay of 261 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 674 days attributable to grounds specified in § 1.702(a)(1). Therefore, entry of both periods is not warranted.

In view thereof, no adjustment to the patent term will be made because the correct adjustment of 650 days is properly set forth in the Letters Patent (adjustments totalling 674 days less reductions totalling 24 days).

The Office acknowledges submission of the required $200.00 application fee. See, 37 CFR 1.18(e).

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

Alesia Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20080303

DATE : 2/29/2008

TO SPE OF : ART UNIT **2800 (2852)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,187,878**

Attn: Bryan Ready

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

Ok to delete (JP) 7,230,231 A as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

/Bryan Ready/

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20080303

DATE : 2/29/2008

TO SPE OF : ART UNIT **2800 (2852)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,187,878**

Attn: Bryan Ready

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

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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

Ok to delete (JP) 7,230,231 A as req. in C of C?

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

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

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

Comments:

/Bryan Ready/ 2852

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PHILIP K. YU
20955 PATHFINDER ROAD
SUITE 100
DIAMOND BAR CA 91765

Paper No. 12072006

In re Application of David Zelon Application Number 11/060,689 Filed: February 16, 2005 For: PET WASTE COLLECTION AND DISPOSAL DEVICE	: : : : : :	Petition to Admit a Model under 37 C.F.R 1.91

This is in response to applicant's Petition under 37 C.F.R. 1.91 filed on July 19, 2006 to have the model and DVD, submitted on August 17, 2005, admitted as part of the record of the application.

The petition is **DENIED.**

Applicable sections of the rules and MPEP are:

37 CFR § 1.91 states:
(a) A model or exhibit will not be admitted as part of the record of an application unless it:
(1) Substantially conforms to the requirements of § 1.52 or § 1.84;
(2) Is specifically required by the Office; or
(3) Is filed with a petition under this section including:
(i) The fee set forth in § 1.17(h); and
(ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.
(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if deemed necessary for any purpose in examination of the application.
(c) Unless the model or exhibit substantially conforms to the requirements of § 1.52 or § 1.84 under paragraph (a)(1) of this section, it must be accompanied by photographs that show multiple views of the material features of the model or exhibit and that substantially conform to the requirements of § 1.84.

MPEP 7.13.08 states:

> The invention in question may be exhibited or demonstrated during the interview by a model or exhibit thereof. A model or exhibit will not generally be admitted as part of the record of an application.

37 CFR § 1.52 states:
(e) Electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination proceeding.
(1) The following documents may be submitted to the Office on a compact disc in compliance with this paragraph:
(i) A computer program listing (see § 1.96);
(ii) A "Sequence Listing" (submitted under § 1.821(c)); or

(iii) Any individual table (see § 1.58) if the table is more than 50 pages in length, or if the total number of pages of all of the tables in an application exceeds 100 pages in length, where a table page is a page printed on paper in conformance with paragraph (b) of this section and § 1.58(c).

(2) A compact disc as used in this part means a Compact Disc-Read Only Memory (CD-ROM) or a Compact Disc-Recordable (CD-R) in compliance with this paragraph. A CD-ROM is a "read-only" medium on which the data is pressed into the disc so that it cannot be changed or erased. A CD-R is a "write once" medium on which once the data is recorded, it is permanent and cannot be changed or erased.

The model and DVD submitted August 17, 2005 were not submitted as part of an interview or required by the office as required by § 1.91 nor is it necessary to demonstrate patentability because the operation is readily apparent from the disclosure as filed. Therefore it will not be made of record in the application. Furthermore, videos on DVDs are not an electronic medium approved under 37 CFR §1.52(e). Therefore, the submission of the model and DVD has been deemed not to be in accordance with §§ 1.91 and 1.52.

It is noted that the examiner considered the model and DVD in the course of examination prior to drafting the Final rejection mailed November 3, 2006.

Furthermore, applicant is reminded that in accordance with 37 CFR 1.94, when the model is no longer necessary for the conduct of business before the office applicant will be notified. Applicant must arrange for the return of the model, exhibit, or specimen at the applicant 's expense.

Finally, applicant is reminded of his responsibility to make prior art of record. On page 3 of the petition applicant directs the examiner's attention to a website. If applicant wishes this website to be considered during the examination of the application then it must be cited in accordance with 37 CFR §§ 1.56, 1.97 and 1.98.

The petition is **DENIED.**

Inquiries related to this decision may be directed to Supervisory Patent Examiner Eileen Lillis at (571) 272-6928.

Kathy Matecki

Kathy Matecki
Acting Director
Patent Technology Center 3600
571-272-5250

edl/SM:12/10/06

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:	
FOROUTANALIABAD, AHMAD	Art Unit: 1761
Serial No. 11/060700	Examiner:
For: METHODS FOR SPLITTING PISTACHIO NUTS	
Filed: February 16, 2005	

Express Mail Certificate

I hereby certify that this correspondence, including listed enclosures, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 label number EL981459425US in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on February 16, 2005.

Signed: Deniece Turner
Deniece Turner

PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER M.P.E.P. § 708.02.VIII (37 C.F.R. § 1.102)

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

Dear Sir:

Applicant hereby petitions to make this new application, which has not received any examination by the examiner, special.

02/23/2005 RMEBRAHT 00000086 11060700
06 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

JUN 29 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

Banner & Witcoff, LTD.
1100 13th Street, N.W.
Suite 1200
Washington, DC 20005-4051

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APR 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Takeo Kawase et al.	:	
Application No. 11/060,726	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 006582.00008	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 23, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Banner & Witcoff, LTD. has been revoked by the assignee of the patent application on January 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Oliff & Berridge, PLC**
P.O. Box 19928
Alexandria, VA 22320

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P. O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Robert W. Fransdonk	:	
Application No. 11/060,728	:	DECISION GRANTING PETITION
Filed: February 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2059.001US8	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 29, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 22, 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 and Fee(s) Due.[1]

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

This application is being referred to Technology Center AU 2131 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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 Part B – Fee(s) Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment.*

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA VA 22182

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APR 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Sok-San Kim et al	:	
Application No. 11/060,735	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 61610503US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 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) 272-3208.

This application is being referred to Technology Center AU 2821 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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Paper No.

DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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SEP 14 2005
OFFICE OF PETITIONS

In re Application of :
Yamashita et al. : DECISION ON PETITION
Application No. 11/060,753 :
Filed: February 18, 2005 :
Atty Docket No.R2184.0401/P401:

This is a decision on the "PETITION TO GRANT FEBRUARY 18, 2005 FILING DATE AND ACKNOWLEDGE RECEIPT OF COMPLETE SPECIFICATION," filed August 16, 2005. Petitioner requests that the above-identified application be accorded a filing date of February 18, 2005.

Application papers in the above-identified application were received on February 18, 2005. However, on June 16, 2005, the Office mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without a complete specification as prescribed by 35 U.S.C. 112. In addition, an oath or declaration was missing.

Petitioner responded with the instant petition (and the petition fee). Petitioner asserts that the application was filed with a complete specification (110 pages) on February 18, 2005, and thus, is entitled to a filing date of February 18, 2005. In support thereof, petitioner submitted a copy of their date-stamped postcard receipt, along with a copy of the as-filed specification.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of the postcard receipt reveals that: 1) it bears an OIPE date-stamp acknowledging receipt on February 18, 2005 of the correspondence assigned application No. 11/060754, 2) it identifies the items being filed, including "Specification (110 pages)" and "68 drawings (19 sheets)," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the specification and 19 sheets of drawings, were filed on February 18, 2005.

Petitioner is advised that the Notice of Incomplete Nonprovisional Application only reflected that no complete specification was considered received. However, no drawings were among the items considered received in the Office on February 18, 2005. Petitioner's postcard evidence is persuasive that 19 sheets of drawings were also deposited on February 18, 2005, and misplaced by the Office.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 04-1073, as authorized.

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

- **correction of the filing date to February 18, 2005**, using the application papers received in the Office and presently accorded that date; and the specification (110 pages) and drawings (19 sheets) both re-supplied on petition filed August 16, 2005;

- indication in Office records, as appropriate, that the application as filed included 19 sheets of drawings; and

- processing of the executed declaration filed August 16, 2005.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

In re Patent of Kitagawa	:	
Patent No. 7,296,590	:	
Issue Date: November 20, 2007	:	Decision on Petition
Application No. 11/060,770	:	
Filing Date: February 18, 2005	:	
Attorney Docket No. 4954-0104PUS1	:	

This is a decision on the petition under 37 CFR 1.182, filed May 12, 2009 requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **granted**.

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

Telephone inquiries related to the petition should be directed to Petitions Attorney Steven Brantley at (571) 272-3203. Any questions concerning delays in the issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 ext. 129.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Kimberly Terrell (FAX 571-273-9740)
Niomi Farmer, Office of Data Management, (FAX 571-270-9753)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070504

DATE : May 4, 2007

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction on Patent No.: 7,201,183

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:

Eric Keasel

SPE: Eric Keasel **Art Unit** 3753

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Commissioner for Patents
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OFFICE OF PETITIONS

Fernandez & Associates, LLP
PO Box D
Menlo Park, CA 94025-6204

In re Application of	:	
Remzi Oten et al.	:	
Application No. 11/060,856	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 79981-203401/US (ICM P049	:	FROM RECORD

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 4, 2006.

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

A review of the file record indicates that the power of attorney to Fernandez & Associates, LLP has been revoked by the assignee of the patent application on August 14, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **GREENBERG TRAURIG, LLP (SV2)**
2450 Colorado Avenue, Suite 400E
Santa Monica CA 90404

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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CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

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OFFICE OF PETITIONS

In re Application of :
Ali Noorbakhsh et al :
Application No. 11/060,862 : ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. 132965

This is a decision on the petition, filed November 6, 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 September 24, 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 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWARD J. GREENWALD, P.C.
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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OFFICE OF PETITIONS

In re Application of	:	
Tuszynski et al.	:	DECISION ON PETITION
Application No. 11/060,868	:	TO WITHDRAW
Filed: February 18, 2005	:	FROM RECORD
Attorney Docket No. JT-780	:	

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.

A review of the file record indicates that a Revocation and New Power of Attorney was submitted by the assignee of the entire interest of the patent application on December 7, 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 first below-listed address until otherwise notified by applicant.

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

David Bucci
Petitions Examiner
Office of Petitions

cc:

BUCHANAN INGERSOLL PC
BURNS, DOANE, SWECKER & MATHIS
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

MICHAEL L. WEINER
TECHNOLOGY INNOVATIONS
150 LUCIUS GORDON DRIVE, SUITE 215
WEST HENRIETTA, NY 14568

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

ROBERT F. FRIJOUF, ESQUIRE
FRIJOUF, RUST & PYLE, P.A.
201 EAST DAVIS BOULEVARD
TAMPA, FL 33606

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SEP 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Helicke et al.	:	
Application No. 11/060,881	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 2005-0020	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2009, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. George R. Meyer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Meyer desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Meyer, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 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 June 26, 2008. A Notice of Abandonment was mailed December 12, 2008.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment , (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center 1791 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFFREY S. ABEL
LARSON, NEWMAN, ABEL, POLANSKY & WHITE, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN, TX 78730

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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MARK R. BUSCHER
SYNTHON IP INC
7130 HERITAGE VILLAGE PLAZA
STE 202
GAINSVILLE, VA 20155

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MAR 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Zhu et al.	:	
Application No. 11/060,886	:	DECISION
Filed: February 19, 2005	:	ON PETITION
For: PROCESS FOR MAKING	:	
PIOGLITAZONE AND COMPOUNDS	:	
OF THE PROCESSES	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37 CFR 1.181(a), filed via Facsimile on February 7, 2006.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed March 18, 2005. The Notice set a two (2) month period for reply. No complete and proper reply having been filed, this application became abandoned on May 19, 2005. A Notice of Abandonment was mailed on December 7, 2005.

The instant petition

Applicant files this petition and asserts that a complete and proper reply to the Notice was timely filed in this Office via facsimile on July 18, 2005. In support of this assertion, Applicant files copies of a Response to Notice to File Missing Parts ("Response"), including a declaration, search fee, examination fee and extension of time request and fee of two (2) months, along with a power of attorney and statement under 37 CFR 3.73. The Response includes a Certificate of Mailing or

Transmission under 37 CFR 1.8, executed by Petitioner on July 18, 2005.

In view of the above, Applicant has demonstrated timely filing of the Response by a preponderance of the evidence. As such, the holding of abandonment is improper and is hereby withdrawn.

No petition fee has been charged and none is due.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE APR 1 1 2008

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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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Mark Buscher
SYNTHON IP INC.
7130 HERITAGE VILLAGE PLAZA
SUITE 202
GAINESVILLE VA 20155

In re Application of	:
ZHU et al	:
Serial No.: 11/060,886	:Decision on Petition
Filed : February 19, 2005	:
Attorney Docket No.: SYN-0054	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on November 21, 2007 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND

This application is filed under 35 USC 111(a) and as such is eligible for restriction requirement practice under 35 USC 121.

On May 29, 2007, the examiner mailed a restriction requirement in which the original claims 1-20 were divided into 8 groups.

On June 29, 2007, Applicants elected Group IV (Claims 7-8m drawn to a process) with traverse. Applicants correctly point out that the requirement for restriction contains two group III. For clarity, Group III (compounds) and Group III (process) will be used herein. The response proposes the restriction between the compound claims 1-5 and the process claims 6-20 may constitute two groups. Applicants also pointed out that the claims indicated for Group V (Claims 19-12), appear to have been intended to read 9-12.

On August 23, 2007, the examiner considered the traversal, reiterated the restriction requirement and mailed to applicants a non-final Office action, in which only part of Group IV (Claim 7) was searched and examined on the merits. The examiner, sua sponte, withdrew Claim 8 from the original group IV because it was "inadvertently included with Claim 7."

On November 11, 2007, applicants filed this petition to request that the Office withdraw the restriction requirement between Claims 6-20.

DISCUSSION

The petition and file history have been carefully considered. Before addressing the merits of the petition, this decision will clarify two points concerning timeliness of the petition and election of Group IV.

First, concerning timeliness of the petition, applicants are correct that the statement by the examiner that the "restriction requirement is deemed sound and proper and will be maintained" in the correspondence mailed August 23, 2007, constitutes the examiner making the restriction requirement final. Thus this petition is considered timely under 37 CFR 1.144 as having been final after a second or final restriction requirement.

Second, it is noted that the examiner, sua sponte, withdrew Claim 8 from the original group IV. The examiner reasoned that because claim 8 was "inadvertently included with Claim 7" in the restriction requirement. This is not adequate. Withdrawing claim 8 from the elected group altered applicants election. The examiner should have contacted applicants prior to the first Office action on the merits to explain the change in their election and to give them a chance to elect a group comprising claim 8.

Turning now to the merits of the petition, it is noted that the petition is not contesting the restriction required made between the products (claims 1-5) and the processes (claims 6-20). The petition requests explanation as to why restriction requirement is proper among the process claims. The petition also requests rejoinder of all the process claims.

The response requests reconsideration of two errors made by the Examiner. First, the petition requests that the Office withdraw the restriction between independent process claims and their dependents, all directed to using compound (7) to make pioglitazone. It is noted that Claim 7 is an independent claim. Claims 8-22 all depend from and further limit the process of Claim 7. The examiner placed the process claims 8-22 in 5 different groups, even though they depend from Claim 7.

Consideration of Independent and Distinct Inventions

35 U.S.C. 121.sets forth the appropriate means for restriction which permits, "If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions."

MPEP 802.01 helps define the terms independent and distinct. The term "independent" (i.e., unrelated) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one

invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art).

The MPEP also provides guidance in 806.01, stating "In passing upon questions of double patenting and restriction, it is the claimed subject matter that is considered and such claimed subject matter must be compared in order to determine the question of distinctness or independence."

Finally, "Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction there between should never be required. This is because the claims are not directed to distinct inventions; rather they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition" (see MPEP 806.03).

Here, as correctly pointed out by the petition on page 4, the inventions of Groups III (process) to VIII (encompassing claims 6-22) are not distinct from each other. Claims 8-22 all depend on and further limit the process of independent Claim 7. Nevertheless, the process claims were placed in 5 different groups. Accordingly, Claims in each group overlap in scope with Claims in another group resulting in groups to the process inventions which are not patentably distinct from each other.

Second, the petition questions the rationale as to why the process claims were found to be restrictable from each other. The MPEP clearly states that examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases. The requirement for restriction does not adequately discuss why the process claims are restrictable from each other. Moreover, applicants are correct that the examiner failed to adequately address the requirement for serious burden in the restriction requirement.

With respect to Claim 6, drawn to a Jepson claim, the claims are also overlapping in scope. As provided in MPEP 806.05(j),

> For other related product inventions, or related process inventions, the inventions are distinct if
>
> (A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive;
>
> (B) the inventions as claimed are not obvious variants; and
>
> (C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.

Here, Claim 6 and Claim 8 appear to be commensurate in scope and encompass the same embodiment. Claim 6 requires the improvement for forming formula (7) via a Darzens Condensation reaction. Claim 8 is similarly drawn to forming a compound of formula (7) via a Darzens Condensation reaction. Because Claim 6 is encompassed within the scope of Claim 8, the inventions overlap in scope and are not distinct.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The restriction requirement made between process claims 6-20 on May 29, 2007 has been withdrawn.

Claims 6, 8-22 are rejoined with claim 7 of Group III (process) already under examination, and said claims 6-22 will be examined together.

The application will be forwarded to the examiner to consider the papers filed 21 November 2007 and to prepare a non-final Office action consistent with this decision which addresses process Claims 6-22.

Should there be any questions about this decision, please contact Special Program Examiner Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

John LeGuyader
Director, Technology Center 1600
jb/jg

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 04/21/2010

Applicant	: Wei Hu	: DECISION ON REQUEST FOR
Patent Number	: 7631091	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,897	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1063** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JUL 24 2006

OFFICE OF PETITIONS

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

In re Application of

Daniel W. Stewart et al
Application No. 11/060,899
Filed: February 18, 2005
Attorney Docket No. 47524/P146US/10602077

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 19, 2006.

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

A review of the file record indicates that the power of attorney to Brian M. Hoffman, along with all of the other attorneys associated with Customer No. **00758** has been revoked by the assignee of the patent application on April 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

This application is being referred to Technology Center AU 2614 for the mailing of the Non-final Rejection on June 20, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
DALLAS OFFICE OF FULBRIGHT & JAWORSKI
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

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NOV 01 2005

Director's Office
Group 3700

Rabinder N. Narula
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

In re Application of :
Donald J. Shanklin, et al. :
Serial No. 11/060,902 : DECISION ON PETITION
Filed: February 18, 2005 : TO MAKE SPECIAL

For: SINGLE VALVE READY TO USE HOSE END SPRAYER

Applicant's petition, filed February 18, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 11/01/05

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DANIEL L. DAWES
MYERS DAWES ANDRAS & SHERMAN, LLP
19900 MACARTHUR BLVD., SUITE 1150
IRVINE, CA 92612

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey P. Kennedy, et al.	:	
Application No. 11/060,903	:	DECISION ON REQUEST
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. XEN1.PAU.03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed September 22, 2005.

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

A review of the file record indicates that the power of attorney to Daniel L. Dawes and all the other attorneys/agents of record was revoked by the assignee of the patent application on January 3, 2006. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

There is an outstanding Office action mailed March 30, 2006 that requires a reply from the applicant.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee: BM

cc: PLEVY & HOWARD, P.C.
P.O. BOX 226
FORT WASHINGTON PA 19034

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JUL 24 2008

OFFICE OF PETITIONS

Howard IP Law Group
P.O. Box 226
Fort Washington PA 19034

In re Application of
Kennedy, et al.
Application No. 11/060,903
Filed: February 18, 2005
Attorney Docket No. XEN-9

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 11, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED WITHOUT PREJUDICE**.

Submission of the required surcharge is a prerequisite prior to treatment on the merits for any petition submitted pursuant to 37 CFR 1.78. The instant petition, while referencing the enclosure of the required surcharge, does not appear to have been submitted with the required surcharge. In view thereof, the petition is subject to dismissal.

Any request for reconsideration of this decision must include the required surcharge and should be submitted within TWO MONTHS of the mail date of the decision indicated above. Extensions of time under 37 CFR 1.136 are not available.

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) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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Howard IP Law Group
P.O. Box 226
Fort Washington PA 19034

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SEP 24 2008

In re Application of :
Kennedy, et al. :
Application No. 11/060,903 : DECISION ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. XEN-9 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 31, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the 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. 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 comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing

date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications.

The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) in that the amendment fails to set forth the relationship of application no. 10/414,936.

Further, the reference to add application no. 10/414,936 in the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application 10/414,936 to this application and removes the improper incorporation by reference to application no. 10/414,936, are required.

As to item (3), the rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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

By mail: Mail Stop PETITIONS
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Post Office Box 1450
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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 Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

Anthony Knight
Supervisor
Office of Petitions

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Kennedy, et al. :
Application No. 11/060,903 : DECISION ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. XEN-9 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed November 14, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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 2885 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 questions concerning this matter may be directed to Alesia M. Brown, Petitions Attorney, at (571) 272-3205.

Anthony Knight
Supervisor
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
11/060,903	02/18/2005	2885	765	XEN-9	20	3

CONFIRMATION NO. 4535

CORRECTED FILING RECEIPT

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

OC000000035121582

Date Mailed: 03/23/2009

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

Applicant(s)

Jeffrey P. Kennedy, San Juan Capistrano, CA;
Alan P. Magerman, Blue Bell, PA;
Stephen L. Maddox, Encinitas, CA;

Power of Attorney: The patent practitioners associated with Customer Number 45722

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/546,812 02/23/2004
and is a CIP of 10/414,936 04/14/2003 PAT 6,896,392
which is a DIV of 09/440,105 11/15/1999 PAT 6,702,452

Foreign Applications

If Required, Foreign Filing License Granted: 03/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/060,903**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

PORTABLE DEVICE FOR VIEWING AND IMAGING

Preliminary Class

362

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

Mail Date: 04/21/2010

Applicant	: Jeffrey P. Kennedy	: DECISION ON REQUEST FOR
Patent Number	: 7581852	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **76** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 06/02/2010

Applicant	: Arnavkumar M. Pathan	: DECISION ON REQUEST FOR
Patent Number	: 7624270	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/060,923	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 2 5 2005

Director's Office
Group 3700

Erric Scott
15695 92nd Way
Jupiter, FL 33478

In re application of Eric Scott	: :	**DECISION ON PETITION** **TO MAKE SPECIAL**
	:	**UNDER 37 CFR. 1.102(c)**
Serial Number: 11/060929 Filed: February 18, 2005	: :	

For: **VALVE FOR PRESSURIZED CANISTER WITH NON-CONSTANT THREAD**

This is a decision on the petition filed on February 18, 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 14 2005

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND OR 97204

In re Application of	:	
Clement G. Eischen, Sr.	:	
Serial No.: 11/060,933	:	DECISION ON PETITION
Filed: February 18, 2005	:	
For: Pressure Maintained Inflatable Boot	:	

This is in response to applicants' petition filed February 18, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt, by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Frederick R. Schmidt, Director
Technology Center 3700

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Stoel Rivers LLP
900 SW Fifth Avenue
Suite 2600
Portland, OR 97204-1268

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Summers	:	
Application No. 11/060,935	:	DECISION ON PETITION
Filed: February 19, 2005	:	TO WITHDRAW
Attorney Docket No. 62462/1:1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 17, 006.

The request is **APPROVED**.

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

The request to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first name inventor at the address below until otherwise properly notified by the applicant.

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

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Jeffrey Summers
23535 S.W. Gage Road
Wilsonville, OR 97070

cc: Jeffrey Summers
P.O. Box 777176
Henderson, NV 89077

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AUG 24 2005

In re Application of Richard A. Maggio, Sr. et al. Serial No. 11/060,940 Filed: February 18, 2005 For: MOLDED PLASTIC WASTE CONTAINER WITH INTEGRAL SIDE CHANNELS FOR RECEIVING LIFTING PRONGS AND METHOD	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed February 18, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Harold L. Jackson, Esq.
Jackson Law Corporation
14751 Plaza Drive, Suite N
Tustin, CA 92780

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FEB 1 0 2006

TECHNOLOGY CENTER 3600

CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

In re application of	:	**DECISION ON PETITION**
Jiten Chatterji et al.	:	**TO MAKE SPECIAL**
Application No. 11/060,941	:	**(APPLICANT'S AGE)**
Filed: February 18, 2005	:	
For: FOAMED TREATMENT FLUIDS AND ASSOCIATED METHODS		

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

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/slb: 02/08/05

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BOSE MCKINNEY & EVANS LLP
111 Monument Circle
Suite 2700
INDIANAPOLIS, IN 46204

Mail Date: 04/21/2010

Applicant	: Wolfgang-Reinhold Knappe	: DECISION ON REQUEST FOR
Patent Number	: 7629175	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,956	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **922** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BOSE MCKINNEY & EVANS LLP
111 Monument Circle
Suite 2700
INDIANAPOLIS, IN 46204

Mail Date: 05/18/2010

Applicant : Wolfgang-Reinhold Knappe
Patent Number : 7629175
Issue Date : 12/08/2009
Application No : 11/060,956
Filed : 02/18/2005

: 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 **961** 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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MALLOY & MALLOY, P.A.
Attorneys for Applicant
2800 S.W. Third Avenue
Historic Coral Way
Miami, Florida 33129

MAILED

SEP 1 2 2005

Director's Office
Group 3700

In re application of Rabbi Abraham Korf	: :	**DECISION ON PETITION** **TO MAKE SPECIAL**
	:	**UNDER 37 CFR. 1.102(c)**
Serial Number: 11/060,958 Filed: February 18, 2005	: :	

For: **AUTOMATIC ADDITIVE DISPENSING ASSEMBLY**

This is a decision on the petition filed on April 15, 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: 9/08/05

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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JUL 25 2006

OFFICE OF PETITIONS

Applicant: Burgess
Appl. No.: 11/060,961
Filing Date: February 18, 2005
Title: METHODS FOR REDUCING AND ELIMINATING RISK EXPOSURE IN LIFE INSURANCE TRANSACTIONS
Attorney Docket No.: 16071.1.1
Pub. No.: US 2005/0182670 A1
Pub. Date: August 18, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on October 14, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors such as missing boldfacing on FIGS. 3A-D, improper boldfacing "10", an "0" which should be an "O", page 6, line 24 "K" is misprinted as "8".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor wherein "O" is misprinted as an "0" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the specification, as the error occurs in a description of the figures 1-3. The mistake is a minor typographical, which does not affect the understanding of the dependent claim. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or

[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).

determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The errors wherein applicant is requesting that "FIGS. 3A-D", "14", "FIGS. 8A-D", "FIGS. 10A-D" and "FIGS. 6-8" are improperly not in boldface, the text of the application is not in boldface. The error wherein application states that the Office improperly printed "K" as an "8", the text of the application on page 21, paragraph 68, line 9 as originally filed is an "8".

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

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

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

Mail Date: 04/21/2010

Applicant	: Kuan-Hong Hsieh	: DECISION ON REQUEST FOR
Patent Number	: 7596233	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/060,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SP-TI-3-1
CORNING, NY 14831

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OFFICE OF PETITIONS

Decision on Petition

In re Application of Burris et al. :
Application No. 11/060,998 :
Filing Date: February 18, 2005 :
Attorney Docket No. SP05-001 :

This is a decision on the petition under 37 CFR 1.181, filed February 13, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action was mailed July 12, 2005. The Office action set a shortened statutory period for reply of three (3) months.

A reply and a request for an extension of time were filed January 17, 2006.

A Notice of Abandonment was mailed January 24, 2006. The Notice states a reply was not filed in response to the July 12, 2005 Office action.

Petitioner has provided a showing in compliance with 37 CFR 1.8(a) demonstrating a reply was timely filed in response to the July 12, 2005 Office action. Specifically, the January 17, 2006 reply includes a certificate of mailing dated January 12, 2006.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2833 will be informed of the instant decision and the application, including the papers filed January 17, 2006, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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wk

Mailed: 8-9-07

In re application of	:	
William H. Shepard et al.	:	DECISION ON
Serial No. 11/061,007	:	PETITION
Filed: February 18, 2005	:	
For: Printable Fastener Composites	:	

This is a decision on the petition filed on April 23, 2007. This is a petition under 37 CFR 1.191(a) TO ADMIT A MODEL WITH THE APPLICATION. Applicants petition for the admission of two models. Applicants assert that the models are necessary to demonstrate patentability of the claimed inventions where arguments and prior art raised in the Office Actions have necessitated an inspection of an embodiment to better appreciate the non-obvious advance of the invention over the prior art.

DECISION

The petition is **DISMISSED**.

Models or exhibits are not generally admitted as part of the application. Applicants explanation have not clearly delineated the need for a model to over come a specific prior art rejection.

Jacqueline M. Stone/wk

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Kirk Dorius
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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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
11/061,043	02/18/2005	2858	1130	CU-4082	2	9	1

CONFIRMATION NO. 2407

UPDATED FILING RECEIPT

OC000000016202823

Richard J. Streit
Ladas & Parry LLP
Suite 1200
224 South Michigan Avenue
Chicago, IL 60604

Date Mailed: 06/06/2005

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

Applicant(s)

Patrick Bougaud, Paris, FRANCE;
Bernard Kantorowski, Paris, FRANCE;
Daniel Arnoux, Paris, FRANCE;
Axel Arnoux, Paris, FRANCE;

Power of Attorney: The patent practitioners associated with Customer Number **26530**.

Domestic Priority data as claimed by applicant

Foreign Applications

FRANCE 04 01624 02/18/2004

If Required, Foreign Filing License Granted: 03/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/061,043

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Procedure to measure grounding resistances of electrical installations by measuring the loop impedance

Preliminary Class

324

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

GRANTED

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

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

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

NOT GRANTED

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

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LAW DEPARTMENT – MD 1610
8000 WEST SUNRISE BOULEVARD
PLANTATION, FL 33322

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OFFICE OF PETITIONS

In re Application of	:	
David H. Kramer et al	:	
Application No. 11/061,051	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. CM06162EI	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 28, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 29, 2006.

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

This matter is being referred to Technology Center AU 2617 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 9/15/09

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/061060 Patent No.: 7208775 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

Steven Loke
SPE

2818
Art Unit

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

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In re Patent No. 7,584,059	: DECISION ON REQUEST
Bodie et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/061,065	: PATENT TERM ADJUSTMENT
Filed: February 18, 2005	: and
Atty Docket No. 20160-002002	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 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 nine hundred ninety-seven (997) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ninety-seven (997) 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 **nine hundred ninety-seven (997)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,059 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Bodie, 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 469 days

Delete the phrase "by 469 days" and insert – by 997 days--

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NEIL A. STEINBERG
2665 MARINE WAY
SUITE 1150
MOUNTAIN VIEW, CA 94043

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OFFICE OF PETITIONS

In re Patent No. 6,980,461	:	
Issue Date: December 27, 2005	:	
Application No. 11/061,069	:	LETTER
Filed: February 18, 2005	:	
Attorney Docket No. 211.006-D1	:	

This is in response to the paper filed January 3, 2006 under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed.

In accordance with the January 3, 2006 request, status as a Small Entity has been removed.

This matter is being referred to Files Repository.

Wan Laymon
Wan Laymon
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,496,332 :
Issued: February 24, 2009 :
Application No. 11/061,075 : PATENT TERM ADJUSTMENT
Filed: February 17, 2005 :
Dkt. No.: 9281-5032 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed April 24, 2009. This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(d). Patentee requests correction of the patent term adjustment from 596 days to 803 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,496,322 on February 24, 2009. The patent issued with a patent term adjustment of 596 days. Patentee argues that the patent is entitled to an adjustment of 803 days (625 days pursuant to 35 USC 154(b)(1)(A) *plus* 207 days pursuant to 35 USC 154(b)(1)(B) *less* 29 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on September 11, 2008, the application was pending three years and 206 days after its filing date (February 18, 2008 to September 10, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 625 days is correct. At issue is whether patentees should accrue 206 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 625 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 206 days of delay in issuing the patent overlaps with the 625 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:

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)*[1] *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).

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.

---

[1] 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.

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 period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), February 17, 2005, and ending on September 10, 2008, the day before the date the RCE was filed on September 11, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), 625 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 206 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 206 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 625 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 206 days and the 625 days is neither permitted nor warranted given that 625 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 596 days of patent term adjustment, having considered the 206 days of Office delay under the three-year pendency provision in conjunction with the 625 days of delay under 37 CFR 1.702(a), reduced 29 days for applicants' delay.

As authorized, the required patent term adjustment application fee has been charged to the deposit account indicated in the application for patent term adjustment.

No additional fees are due in connection with this matter.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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In re Application of	:
Baur and Bray	: DECISION ACCORDING STATUS
Application No. 11/061,076	: UNDER 37 CFR 1.47(a)
Filed: 18 February, 2005	:
Atty Docket No.	:
34003.129/P060US	:

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

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Kenneth L. Bray, has refused to the sign the declaration after having been sent a copy of the application. Specifically, petitioners have shown that a copy of the specification, drawings, and declaration were sent to the non-signing inventor's last known address. Additionally, petitioners' counsel states that the non-signing inventor refused, during a telephone call, to execute and return the declaration naming him as a joint inventor along with Christof Baur.

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

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

The application is being referred to Technology Center Art Unit 2834 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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CANCELLED

Kenneth L. Bray
1110 Dove Drive
Garland TX 75040

In re Application of
Baur et al.
Application No. 11/061,076
Filed: 18 February, 2005
For: POSITIONING DEVICE FOR MICROSCOPIC MOTION

Dear Mr. Bray:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 571-272-3150. 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 571-272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

HAYNES AND BOONE
901 MAIN STREET, SUITE 3100
DALLAS TX 75202

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Julian Fong	:	
Application No. 11/061,089	:	DECISION ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 021751-006810US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by. 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was timely filed. Accordingly, the date of abandonment of this application is February 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,180.00, four month extension of time fee submitted with the petition on May 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 2628 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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JACOBS & KIM LLP
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SUITE 1000, #1082
WALTHAM MA 02451-1401

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OFFICE OF PETITIONS

In re Application of Couturier et al. :
Application No. 11/061,102 :
Filing Date: February 18, 2005 :
Attorney Docket No. IMPF-101-US :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed March 14, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 1, 2008, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, November 4, 2008. A Notice of Abandonment was mailed on February 20, 2009.

The instant petition requests revival of the application.

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the outstanding non-final Office action. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2436 will be informed of the instant decision and the application, including the amendment filed March 14, 2009, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Micahael Maier, et al	:	
Application No. 11/061,115	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 11336-903 (P02082US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman – Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on June 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. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

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

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHBRIDGE, CA 91329

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OFFICE OF PETITIONS

In re Application of
Chan, et al.
Application No. 11/061,118
Filed: February 18, 2005
Dkt. No.: 3932
For: COMPUTER KEYBOARD BACKLIGHTING

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed September 23, 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 February 18, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 17, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge.

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

The instant petition fails to satisfy requirement (1) set forth above.

Petitioners allege the inventors S. Chan, K. Chu, and W.E. Church have refused to sign the declaration for the above-identified application. Petitioners indicate that a copy of the application papers was emailed to inventors S. Chan and W.E. Church. Inventor S. Chan was asked to provide a copy of the application to inventor K. Chu. Petitioners have failed to establish that the inventors received the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners further did not attempt to provide inventor K. Chu.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventors.

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

Any renewed petition should be accompanied by evidence to establish that the non-signing inventor(s) was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventor(s) indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor(s) receives the application papers and requests to execute the oath or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition. Petitioners' attention is directed to MPEP 409.03(d) for further guidance.

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

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

By facsimile: (571) 273-8300

By hand: 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

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OFFICE OF PETITIONS

In re Application of	:
Chan, et al.	: DECISION GRANTING STATUS
Application No. 11/061,118	: UNDER 37 CFR 1.47(a)
Filed: February 18, 2005	:
Dkt. No.: 3932	:
For: COMPUTER KEYBOARD	:
BACKLIGHTING	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed December 27, 2005.

The petition is **GRANTED**.

Petitioners have established inventor W. Edward Church has refused to execute the declaration for the above-identified application having been presented with the application.

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

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

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
James E. JEVIS	:	
Application No. 11/061,128	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 28784-703.201	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Steven G. Bacsi on behalf of all attorneys/agents of record who are associated with customer No. 21971.

All attorneys/agents associated with the Customer Number 21971 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 inventor at the first copied address below until otherwise properly notified by the applicant.

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

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JAMES E. JERVIS
495 WALSH ROAD
ATHERTON, CA 94027

cc: RYAN KROMHOLZ AND MANION SC
3360 GATEWAY ROAD
BROOKFIELD, WI 53045

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/061,128	02/17/2005	James E. Jervis	28784.703.201

CONFIRMATION NO. 9534

POWER OF ATTORNEY NOTICE

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

OC000000027678793

Date Mailed: 01/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

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

/dcgoodwyn/

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

OIPE JC101
MAY 18 2005
PATENT & TRADEMARK OFFICE

I hereby certify that I have reasonable basis to expect that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail addressed to: Commissioner for Patents, PO Box 1450, Alexandria VA 22313-1450 on May 13, 2005

Stephanie Harbin

Stephanie Harbin

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 11/061,130
(Attorney Docket No. GP-305158)

Filed January 31, 2003
Confirmation No. 9531

Kenneth D. Schoch
William S. Reed

Group 3682

CASTELLATED SNAP RING RETENTION SYSTEM AND METHOD

Inventorship change approved BHB 10/10/06

PETITION UNDER 37 C.F.R. 1.48 TO ADD AN INVENTOR TO AN APPLICATION

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

Sir:

This is a Petition to delete Joel E. Mowatt and James A. Raszkowski as a named inventor to U.S. Serial No. 11/061,130. Attached with this petition is a statement by Joel E. Mowatt and James A. Raszkowski stating that the inventorship error occurred without deceptive intention on their part; a declaration by each inventor; and a statement by the only assignee, General Motors Corporation, agreeing to the change of inventorship.

05/19/2005 AWONDAF1 00000025 070960 11061130
01 FC:1464 130.00 DA

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

Fish & Richardson P.C.
PO Box 1022
Minneapolis, MN 55440-1022

COPY MAILED

JAN 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Sriraman Dakshinamurthy et al.	:	
Application No. 11/061,153	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 16155-007001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Beceem Communications, Inc.**
3960 Freedom Circle, 1st Floor
Santa Clara, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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MAY 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Sriraman Dakshinamurthy, et al.	:	
Application No. 11/061,153	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 16155-007001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

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

A review of the file record indicates that the power of attorney to Fish & Richardson, P.C. has been revoked by the assignee of the patent application on April 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 Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Beceem Communications, Inc.**
P.O. Box 6585
Santa Clara, CA 95056-6585

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MICHAEL J. COLITZ, III
HOLLAND & KNIGHT LLP
P.O. BOX 1288
TAMPA FL 33601-1288

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Kawabata et al.	:	
Application No. 11/061,183	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 115619.00005	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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 $555.00 extension of time fee submitted on January 7, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

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

This matter is being referred to Technology Center AU 3636 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MAY 16 2007

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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

In re Application of	:
Yoshihiro Fukuo et al	:
Serial No.: 11/061,190	: PETITION DECISION
Filed: February 18, 2005	:
Attorney Docket No.: 3274-045812	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed April 10, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition does not meet all of the requirements for acceptance of color drawings. Applicants' petition indicates three sets of color drawings are submitted with the petition as well as a black and white copy, however it appears only one sheet of color drawing was submitted.

The petition is **DISMISSED**. Submission of three sets of color drawings would allow the petition to be granted.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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MAY 24 2007

THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH PA 15219

In re Application of	:
Yoshihiro Fukuo et al	:
Serial No.: 11/061,190	: PETITION DECISION
Filed: February 18, 2005	:
Attorney Docket No.: 3274-045812	:

The petition decision mailed May 16, 2007, is hereby vacated in view of the decision below.

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed April 10, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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

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DEC 0 4 2006
OFFICE OF PETITIONS

In re Application of
WILLIAMSON, Bryan
Application No. 11/061,204
Filed: February 18, 2005
Attorney Docket No. 62688(51196)

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 8, 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 Howard M. Gritten on behalf of all attorneys of record who are associated with customer No. 21874. All attorneys/agents associated with the Customer Number 21874 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: **BRYAN WILLIAMSON**
8240 CLEARY BLVD., #2407
PLANTATION, FL 33324

cc: **TRAVELTRANZ, INC.**
10001 NW 50TH STREET, SUITE 113
SUNRISE, FL 33351

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 05/19/2010

Applicant	: Jason M. Gentry	: DECISION ON REQUEST FOR
Patent Number	: 7652581	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/061,213	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **372** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JOSEPH E. FUNK
82 CHASE RD
LONDONDERRY, NH 03053

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Clifford B. Dodge	:	DECISION ON PETITION
Application No. 11/061,230	:	
Filed: February 18, 2005	:	
Attorney Docket No. Summit 3	:	

This is a decision on the petition filed April 22, 2005, requesting that the application be accorded a filing date of February 18, 2005, with Figures 1 and 2 as part of the original disclosure.

On February 18, 2005, applicant filed the above-identified application. However, on March 24, 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 18, 2005, and advising applicant that Figures 1 and 2 appeared to have been omitted.

In response, on April 22, 2005, applicant submitted the present petition, 1 sheet of drawings, including Figures 1 and 2, and paid the petition fee. Additionally, applicant submitted a copy of applicant's date-stamped postcard receipt acknowledging receipt of 6 pages of drawings in the USPTO on February 18, 2005.

Upon review of the record, Figures 1 and 2, deposited on February 18, 2005, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 18, 2005, included Figures 1 and 2, which were subsequently misplaced in the USPTO.

Therefore, the application, including Figures 1 and 2, was complete on filing and will be granted a filing date of February 18, 2005.

Accordingly, the petition is granted.

The requirement for Figures 1 and 2 set forth in the Notice of Omitted Item(s) was sent in error and is hereby vacated. Accordingly, no petition fee is necessary. The $400.00 petition fee will be refunded by treasury check.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of February 18, 2005,** using Figures 3-10 submitted on that date, and Figures 1 and 2 submitted on April 22, 2005, as part of the original disclosure.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

COPY MAILED

JAN 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
SKIBA, et al.	:	
Application No. 11/061,235	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 2079.002US1	:	FROM RECORD
	:	

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 4, 2006.

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

A review of the file record indicates that the power of attorney to Bradley A. Forrest of SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, PA has been revoked by the assignee of the patent application on December 12, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MESCHKOW & GRESHAM, P.L.C.**
5727 NORTH SEVENTH STREET, SUITE 409
PHOENIX, AZ 85014

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
11/061,235	02/18/2005	Jeffry B. Skiba	2079.002US1

CONFIRMATION NO. 3883

OC000000021835222

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 01/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2006:

- 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).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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
11/061,235	02/18/2005	Jeffry B. Skiba	2079.002US1

CONFIRMATION NO. 3883

OC000000021835229

43354
MESCHKOW & GRESHAM, P.L.C.
5727 NORTH SEVENTH STREET, SUITE 409
PHOENIX, AZ 85014

Date Mailed: 01/04/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/12/2006.

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 PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/061,237	02/18/2005	1764	565	23-70768-01	19	20	3

CONFIRMATION NO. 3876

CORRECTED FILING RECEIPT

OC000000016677693

45895
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
BANK ONE TOWER/CENTER
111 MONUMENT CIRCLE, SUITE 3700
INDIANAPOLIS, IN 46204-5137

Date Mailed: 08/03/2005

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)

Ward E. TeGrotenhuis, Kennewick, WA;
Robert S. Wegeng, Alexandria, VA;
Greg A. Whyatt, West Richland, WA;
David L. King, Richland, WA;
Kriston P. Brooks, Kennewick, WA;
Victoria S. Stenkamp, Richland, WA;

Power of Attorney: The patent practitioners associated with Customer Number **32215**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/573,160 05/21/2004
and claims benefit of 60/599,718 08/05/2004
and claims benefit of 60/546,114 02/18/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/061,237

Projected Publication Date: 11/10/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Devices with extended area structures for mass transfer processing of fluids

Preliminary Class

422

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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SPRINT COMMUNICATIONS COMPANY L.P.
6391 SPRINT PARKWAY
KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Tao Ye	: DECISION ON REQUEST FOR
Patent Number	: 7639627	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/061,241	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **758** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

SIDLEY AUSTIN BROWN & WOOD LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

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NOV 21 2005

OFFICE OF PETITIONS

In re Application Of:
Tomiei Kuwa
Application No. 11/061,261
Filed: February 18, 2005
Attorney Docket No. 15162/06570
Title: PROJECTION OPTICAL SYSTEM

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

This is in response to the petition under 37 C.F.R. §1.47(b)[1], filed November 3, 2005.

The above-identified application was filed February 18, 2005, without an executed oath or declaration and identifying Tomiei Kuwa as the sole inventor. On May 3, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

In reply, applicant filed the present petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, a four-month extension of time to make timely this response, a declaration which has been executed by the alleged employer of the non-signing inventor, a statement of facts, and copies of several communications.

Petitioner has met requirements (1) – (4) and (6) of 37 C.F.R. §1.47(b).

---

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

Regarding the fifth requirement of 37 C.F.R. §1.47(b), Petitioner has not submitted adequate proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application. The applicant has failed to prove sufficient proprietary interest in the subject matter to justify the filing of the application[2]. The declaration sets forth that the non-signing inventor used to be employed by the purported assignee. Unfortunately, no assignment documents have been provided, and no Reel and Frame number where the recordation of this assignment may be found has been provided. Furthermore, there is no record in the PTO's Patent Application Location and Monitoring System of an Assignment involving this application. These facts fail to establish that the petitioner has any proprietary interest in the application at hand, and it appears that the inventor never assigned any rights in the present invention to the corporation[3]. On renewed petition, the petitioner should provide either an executed assignment showing that the invention disclosed in the application is assigned to Rule 47(b) applicant, or; a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would, by the weight of the authority, award title to the invention to the Rule 47(b) applicant.

No assignment document appears in the electronic file, although it is mentioned on page 2, paragraph 5 of the petition. Petitioner must make the appropriate request to take action pursuant to 37 C.F.R. §3.73(b).

Regarding the seventh requirement of 37 C.F.R. §1.47(b), the declaration submitted with this petition cannot be accepted. The declaration lists a Post Office address of the non-signing inventor as one which is different from that which appears in the statement of facts, page 2, paragraph 4. Assuming that the statement of facts is to be believed, Petitioner will need to submit a declaration which contains the correct last known address for the non-signing joint inventor. It is assumed that the last known address which appears in the petition is the correct one, as the address which appears in the declaration is the address for the corporation, and it does not seem likely that a former employee would continue to desire that his mail be sent to a company which no longer employs him.

For these reasons, the petition under 37 C.F.R. 1.47(b) must be **DISMISSED**.

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

The renewed petition under 37 C.F.R. §1.47(b) should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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2 See 35 U.S.C. §118, 37 CFR §1.47(b), and MPEP § 409.03(f).

3 See MPEP 402.07 and 37 CFR 3.71(c).

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 (571) 273-8300- please note this is a central facsimile number.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

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OFFICE OF PETITIONS

SIDLEY AUSTIN BROWN & WOOD LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

In re Application Of:
Tomiei Kuwa
Application No. 11/061,261
Filed: February 18, 2005
Attorney Docket No. 15162/06570
Title: PROJECTION OPTICAL SYSTEM

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

This is in response to the renewed petition under 37 C.F.R. §1.47(b)[1], filed January 23, 2006.

The above-identified application was filed February 18, 2005, without an executed oath or declaration and identifying Tomiei Kuwa as the sole inventor. On May 3, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

In reply, applicant filed the original petition on November 3, 2005, which was dismissed via the mailing of a decision on November 21, 2005 for failure to establish that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application, and for failure to submit an acceptable declaration.

---

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

With this renewed petition, Petitioner has submitted a statement under 37 C.F.R. § 3.73 as well as an acceptable declaration.

As such, the renewed petition under 37 C.F.R. §1.47(b) is **GRANTED**.

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 inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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BROSEMER, KOLEFAS & ASSOCIATES, LLC - (LUCENT)
1 BETHANY ROAD
BUILDING 4 - SUITE # 58
HAZLET, NJ 07730

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JAN 14 2009

In re Application of	:	
Shih-Chang Liang, et. al.	:	
Application No. 11/061,275	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. Liang-1-1	:	

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

The application became abandoned for failure to respond to the non-final Office action mailed December 26, 2007. A Notice of Abandonment was mailed on August 22, 2008.

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 $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2619 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Underseth and Murphy	:	
Application No. 11/061,283	:	DECISION ACCORDING STATUS
Filed: 18 February, 2005	:	UNDER 37 CFR 1.47(a)
Atty Docket No. STECINC.017CP1	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 21 July, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established that a letter sent to the last known address of the non-signing inventor was returned as undeliverable. Furthermore, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

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

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

The application is being referred to Technology Center Art Unit 2878 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-05

Dan Murphy
387-B Pine Avenue
Carlsbad CA 92008

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AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Underseth et al.
Application No. 11/061,283
Filed: 18 February, 2005
For: SYSTEM AND METHOD FOR TESTING DEVICES

Dear Mr. Murphy:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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

Michael O. Sturm
Sturn & Fix, LLP
206 Sixth Avenue, Suite 1213
Des Moines, IA 50309-4076

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JUL 2 1 2005

OFFICE OF PETITIONS

In re Application of :
Eric Grippo :
Application No. 11/061,289 :
Filed: NO FILING DATE ACCORDED :
Attorney Docket No. :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d) filed February 18, 2005.

The petition is **dismissed.**

The instant petition requests that the subject application be accorded a filing date of December 15, 2004. Petitioner maintains that the application was deposited with the United States Postal Service (USPS), "Express Mail" service on December 15, 2004, under "Express Mail" receipt number EV333007089, but was lost before it received by the USPTO.

Section 1.10(e) of the Title 37 of the Code of Federal Regulations provides that:

> (e) Any person mailing correspondence addresses 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 Office, may petition the Director 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 (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 established, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The instant petition does not satisfy the requirements of item (3) above.

Relative to item (3) above, a copy of the "Express Mail" mail mailing label showing the "date-in" of Express mail package EV333007089 was not found the with the petition. The affidavit of Deborah Potts is noted, however, it does not serve as *prima facie* evidence that the subject patent application was deposited with USPS Express Mail Service on December 15, 2004. Evidence that may serve as *prima facie* evidence of the deposit of Express Mail package EV333007089 with the USPS on December 15, 2004, is described in 37 CFR 1.10(e)(3). Such evidence includes, a copy of the any returned postcard receipt, a copy of the Express Mail mailing label showing the "date-in", or a copy of other official notation by the USPS regarding the deposit of the package. It is understood that petitioner would not have a returned postcard receipt for an application that was never received by the USPTO, however; it is possible for petitioner to have the Express Mail mailing label for the subject package showing a "date-in" of December 15, 2004, as it would have been given to petitioner upon depositing the package. Petitioner should note that the file record as maintained by the USPTO is the official file record and presumed to be accurate absent a showing to the contrary as established by *prima facie* evidence. The instant petition was not accompanied by such evidence and is dismissed, accordingly.

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

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

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

It is noted that the application has not yet been accorded a filing date. The application will be directed to the Office of Initial Patent Examination for pre-examination review whereupon a filing date will be accorded.

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

Kenya A. McLaughlin
Petitions Examiner
Office of Petitions

NITED STATES PATENT AND TRADEMARK OFFICE

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

Michael O. Sturm
Sturn & Fix, LLP
206 Sixth Avenue, Suite 1213
Des Moines, IA 50309-4076

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OCT 18 2005

OFFICE OF PETITIONS

In re Application of :
Eric Grippo :
Application No. 11/061,289 : DECISION ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. :

This is a decision on the renewed petition under 37 CFR 1.10(d) filed October 3, 2005.

The renewed petition is **dismissed.**

A petition under 37 CFR 1.10(d) was filed on February 18, 2005, requesting that the subject application be accorded a filing date of December 15, 2004. Petitioner argued that the application was deposited with the United States Postal Service (USPS), "Express Mail" service on December 15, 2004, under "Express Mail" receipt number EV333007089, but was lost before it was received by the USPTO. The petition was dismissed by a decision mailed July 21, 2005; the instant renewed petition was filed on October 3, 2005. Petitioner maintains that the Express Mail receipt for the application is not available because petitioner deposited the application in a USPS drop box and, because the application was allegedly lost in processing, the Express Mail Service receipt was not returned to petitioner.

Section 1.10(e) of the Title 37 of the Code of Federal Regulations provides that:

> (e) Any person mailing correspondence addresses 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 Office, may petition the Director 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 (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 established, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The instant petition does not satisfy the requirements of item (3) above.

Petitioner should note that the file record as maintained by the USPTO is the official file record and presumed to be accurate absent a showing to the contrary as established by *prima facie* evidence. In the case of a petition filed pursuant to 37 CFR 1.10, such *prima facie* evidence might include a copy of any returned post card receipt, a copy of the Express Mail label showing the date-in, or a copy of any other official notation by the USPS regarding the deposit of the package. Petitioner is not able to provide such *prima facie* evidence because the application was deposited in a drop box. It is noted that 37 CFR 1.10(b) provides that:

> 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 marled. 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 or fees that constitute the correspondence should also include the "Express Mail" mailing label number thereon.

It is further noted that Section 513 of the *Manual of Patent Examining Procedure (MPEP),* provides, in pertinent part, that:

> 37 CFR 1.10(b) further provides that 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, and that persons dealing indirectly with the employees of the USPS (such as by depositing correspondence 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. On petition, the failure to obtain an "Express Mail" receipt with the "date-in" clearly marked may be considered an omission that could have been avoided by the exercise of due care, as discussed below. While the Office strongly urges direct deposit of "Express Mail" correspondence in order to obtain a legible copy of the "Express Mail" mailing label, parties are not precluded from using "Express Mail" drop boxes, but do so at their own risk.
>
> Parties who do use drop boxes can protect themselves from uncertainty due to illegible mailing labels by routinely maintaining a log of "Express Mail" deposits in which notations are entered by the person who deposited the correspondence as "Express Mail" within one business day after deposit with the USPS. Such evidence could be useful to later support a petition filed under 37 CFR 1.10(c), (d), (e), or (g). Evidence that came into being after deposit and 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.

Taken together, 37 CFR 1.10(b) and the above-cited section of the MPEP, indicate that petitioner's decision to deposit the application in a drop box does not mitigate the evidentiary burden imposed by 37 CFR 1.10(d), which is to provide *prima facie* evidence of the application's deposit on the requested date. The memorandum from the USPS is noted, but is not persuasive. While it demonstrates petitioner's efforts to locate the application, the memorandum does not speak to the date of deposit of the application and is, therefore, of little probative value. The provisions of 37 CFR 1.10 are meant to provide a safeguard for applicants whereby applicant can be assured that an application will receive the intended filing date if the procedures are followed. Arguably, the use of the drop box reduces the effectiveness of the safeguard provide by 37 CFR 1.10 as this introduces an additional unknown into the mailing process—applicant has no way of knowing when the package will actually be processed, if at all, and has no objective evidence that the package was ever deposited. Without *prima facie* evidence of the application's deposit with the Express Mail service, the application cannot be accorded a filing date other than the date it was actually received by the Patent and Trademark Office. The renewed petition id dismissed, accordingly.

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

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

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

The application will directed to the Office of Initial Patent Examination for further processing with the currently accorded filling date of February 18, 2005.

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

Kenya A. McLaughlin
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MS: D-106
MILPITAS CA 95035

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OFFICE OF PETITIONS

In re Application of	:	
Gearhardt et al.	:	
Application No. 11/061,292	:	DECISION ON PETITION
Filed: 18 February, 2005	:	
Attorney Docket No. 04-1871	:	

This is a decision on the "PETITION UNDER 37 CFR 1.137(a) TO WITHDRAW ABANDONMENT (UNAVOIDABLE)," filed on 26 July, 2006, which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

On 15 March, 2006, the Office mailed a Notice of Allowance and Fee(s) Due, requiring payment of the issue fee, which set a three-month statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 16 June, 2006. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioners assert that the Notice was not received. Specifically, the practitioner asserts that the Office action was returned to the USPTO as undeliverable.

In the absence of any irregularity in the mailing of the Notice of Allowance and Fee(s) Due, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was

not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the USPTO mailed the Notice to the correct correspondence address; however, it was inexplicably returned to the USPTO on 29 March, 2006. For this reason, the practitioner did not receive the Notice of Allowance and Fee(s) Due mailed on 15 March, 2006.

The petitioner has made a sufficient showing of nonreceipt of the Notice action. Accordingly, any holding of abandonment is withdrawn.

No petition fee is due and none has been charged.

The application is restored to pending status.

The petition is **GRANTED.**

As applicant has submitted the Fee(s) Transmittal form and stated that a reply to the Notice of Allowance is enclosed, the issue fee will be charged to counsel's deposit account. The Notice of Allowance will not be remailed.

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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GTC BIOTHERAPEUTICS, INC,
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

COPY MAILED

OCT 1 1 2007

OFFICE OF PETITIONS

Applicant: Strome et al.
Appl. No.: 11/061,295
Filing Date: February 18, 2006
Title: METHOD OF USING AN ANTI-CD137 ANTIBODY AS AN AGENT FOR RADIOIMMUNOTHERAPY OR RADIOIMMUNODETECTION
Attorney Docket No.: G0744.70002US00
Pub. No.: 2006/0188439 A1
Pub. Date: August 24, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on October 26, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709 (voice).

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 19 2005

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

In re application of	:	**DECISION ON PETITION**
Ming-Chin Lu et al.	:	**TO MAKE SPECIAL**
Application No. 11/061,310	:	**(ACCELERATED**
Filed: February 18, 2005	:	**EXAMINATION)**
For: FOLDING CHAIR WITH ANTI-PINCHING DEVICE		

This is in response to the petition filed on September 08, 2005 and supplemental petition filed on October 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(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

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

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

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

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

KJD/slb: 10/19/05

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

Mail Date: 05/21/2010

Applicant	: Richard Milon Dujmovic JR.	: DECISION ON REQUEST FOR
Patent Number	: 7643877	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/061,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Jervis E. James	:	
Application No. 11/061,320	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 28784-706.201	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Steven Bacsi on behalf of all attorneys of record who are associated with this customer number 21971.

All attorneys/agents associated with customer number 21971 have been withdrawn.

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

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

The application became abandoned for failure to timely respond to the outstanding Office action mailed July 26, 2007.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JERVIS E. JAMES
495 WALSH ROAD
ATHERTON, CA 94027

cc: RYAN KROMHOLZ AND MANION, SC
3360 GATEWAY ROAD
BROOKFIELD, WI 53045

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/061,320	02/17/2005	Jervis E. James	28784-706.201

CONFIRMATION NO. 2695

POWER OF ATTORNEY NOTICE

21971
WILSON SONSINI GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

OC000000029632930

Date Mailed: 04/29/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

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

/amwise/

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

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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OFFICE OF PETITIONS

In re Application of	:	
Robert E. DELANEY, et al	:	
Application No. 11/061,326	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. GCSI-0028	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Woodcock Washburn LLP, has been revoked by the assignee of the patent application on November 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHAEL R. PHILLIPS
P.O. BOX 1818
TOMS RIVER, NJ 08754-1818

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DORSEY & WHITNEY LLP
555 CALIFORNIA STREET, SUITE 1000
SUITE 1000
SAN FRANCISCO, CA 94104

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OFFICE OF PETITIONS

In re Application of	:	
David L. Olmeijer, et al.	:	
Application No. 11/061,331	:	DECISION ON PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 33968/US/2/RFT	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 24, 2005, 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 **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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on February 18, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/546,078, which was filed on February 18, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

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

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

[1] *Note* 37 CFR 1.121

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

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

Any questions concerning this matter may be directed to Sherry D. Brinkley at (571) 272-3204.

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

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

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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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APR 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
David L. Olmeijer, et al.	:	
Application No. 11/061,331	:	DECISION ON PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 67493-5036-US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 24, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

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

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

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

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

Any inquiries concerning this decision may be directed to Sherry D. Brinkley at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 1755 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/061,331	02/18/2005	1755	965	67493-5036-US	28	5

CONFIRMATION NO. 4928
CORRECTED FILING RECEIPT
OC000000023441914
OC000000023441914

67374
MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

Date Mailed: 04/18/2007

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)

David L. Olmeijer, San Francisco, CA;
Christopher G. Castledine, Mountain View, CA;
Jonathan D. Servaites, Oakland, CA;
Douglas S. Diez, Union City, CA;

Assignment For Published Patent Application

Polyfuel, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **32940**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/546,078 02/18/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/061,331

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Catalyst ink, process for making catalyst ink and for preparing catalyst coated membranes

Preliminary Class

502

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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Hogan & Hartson, LLP
One Tabor Center
1200 17th Street, Suite 1500
Denver, CO 80202

MAILED

MAY 20 2010

OFFICE OF PETITIONS

In re Patent No. 7,425,637
Wallace et al.
Issue Date: Sep. 16, 2008
Application No. 11/061,336
Filed: February 18, 2005
Attorney Docket No. 100-01-CON
Title: N3 ALKYLATED BENZIMIDAZOLE DERIVATIVES AS MEK INHIBITORS

: 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 three hundred and ninety-five (395) 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 three hundred ninety-five (395) 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 : 7,425,637 B2

DATED : **September 16, 2008** **DRAFT**

INVENTOR(S) : Wallace 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 382 days

Delete the phrase "by 382 days" and insert – by 395 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 09:18:50

PTA Calculations for Application: 11/061336			
Application Filing Date:	02/18/2005	PTO Delay (PTO):	447
Issue Date of Patent:	09/16/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	65
Post-Issue Petitions:	0	Total PTA (days):	395
PTO Delay Adjustment:	13		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
73	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	13		
65.5	08/27/2008	PTA 36 MONTHS			
65	09/16/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
63	08/07/2008	EXPORT TO FINAL DATA CAPTURE			
62	08/06/2008	DISPATCH TO FDC			
61	08/06/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
60	08/05/2008	ISSUE FEE PAYMENT VERIFIED			
59	08/05/2008	ISSUE FEE PAYMENT RECEIVED			
58	06/06/2008	EXPORT TO INITIAL DATA CAPTURE			
57	06/03/2008	MAIL NOTICE OF ALLOWANCE			
56	06/02/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
55	05/22/2008	ISSUE REVISION COMPLETED			
54	05/22/2008	DOCUMENT VERIFICATION			
53	05/22/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
52	05/22/2008	NOTICE OF ALLOWABILITY			
51	03/03/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
50	03/03/2008	REFERENCE CAPTURE ON IDS			
49	03/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	04/29/2008	DATE FORWARDED TO EXAMINER			
47	03/03/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
46	04/29/2008	DISPOSAL FOR A RCE / CPA / R129			

45	04/09/2008	FINISHED INITIAL DATA CAPTURE			
44	03/03/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	03/03/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	01/04/2008	EXPORT TO INITIAL DATA CAPTURE			
41	12/31/2007	MAIL NOTICE OF ALLOWANCE			
40	12/27/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
39	12/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
38	12/27/2007	ISSUE REVISION COMPLETED			
37	12/27/2007	DOCUMENT VERIFICATION			
36	12/26/2007	NOTICE OF ALLOWABILITY			
34	12/18/2007	DATE FORWARDED TO EXAMINER			
33	12/06/2007	RESPONSE AFTER NON-FINAL ACTION			
32	10/18/2007	MAIL NON-FINAL REJECTION			
31	10/15/2007	NON-FINAL REJECTION			
30	10/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	07/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	05/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	01/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		65	21
25	10/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	07/31/2007	REFERENCE CAPTURE ON IDS			
23	07/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	08/01/2007	DATE FORWARDED TO EXAMINER			
21	07/31/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
20	07/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	07/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/09/2007	MAIL RESTRICTION REQUIREMENT	447		-1
17	07/03/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
16.7	05/07/2007	ELECTRONIC INFORMATION DISCLOSURE			

		STATEMENT			
16	05/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/19/2006	REFERENCE CAPTURE ON IDS			
14.7	01/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	01/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	07/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	07/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	06/27/2005	CORRESPONDENCE ADDRESS CHANGE			
10	03/19/2005	APPLICATION RETURN FROM OIPE			
9	03/19/2005	APPLICATION RETURN TO OIPE			
8	03/19/2005	APPLICATION RETURN FROM OIPE			
7	03/21/2005	APPLICATION IS NOW COMPLETE			
6	03/19/2005	APPLICATION RETURN TO OIPE			
5	03/19/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/21/2005	APPLICATION IS NOW COMPLETE			
3	03/16/2005	CLEARED BY OIPE CSR			
2	03/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/18/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SUITE 201
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Remzi Oten et al.	:	
Application No. 11/061,349	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 79981-203301/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 2006.

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

A review of the file record indicates that the power of attorney to Fernandez & Associates has been revoked by the assignee of the patent application on August 14, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **GREENBERG TRAURIG, LLP (SV)**
IP DOCKETING
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA CA 90404

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OFFICE OF PETITIONS

In re Application of	:	
Shinichi Takizawa et al	:	
Application No. 11/061,358	:	DECISION ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 57139-5073	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 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 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2007. Accordingly, the date of abandonment of this application is May 15, 2007. A Notice of Abandonment was mailed on June 7, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions

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HOUSTON TX 77010

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OFFICE OF PETITIONS

In re Application of :
SAKAI, et al. :
Application No. 10/525,998 : DECISION GRANTING PETITION
Filed: February 28, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 08228/073001 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on September 7, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[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

In re Application of

ALLEN, Jont B. et al.
Application No. 11/061,368
Filed: February 18, 2005
Attorney Docket No. **022398-000110US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JONES DAY**
1755 EMBARCADERO ROAD
PALO, CA 94303

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3 CLOVERDALE LANE
MONSEY NY 10952

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OFFICE OF PETITIONS

In re Patent No. 7,409,536	:	
Issue Date: August 5, 2008	:	
Application No. 11/061,396	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. CN920030018US1	:	

This is a decision on the petition filed December 8, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. 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/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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P.O. BOX 70250
OAKLAND, CA 94612-0250

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OFFICE OF PETITIONS

In re Application of

FUJIYOSHI, Tatsumi
Application No. 11/061,409
Filed: February 17, 2005
Attorney Docket No. **ALPSP190**

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 06, 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 James E. Austin on behalf of all attorneys of record who are associated with customer No. 22434.

Haruo Yawata has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

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DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
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APR 27 2005

In re Application of	:	
Eric M. Adickes	:	DECISON
Serial No. 11/061,423	:	ON
Filed: February 18, 2005	:	PETITION
For: ARCHITECTURAL GLASS PANELS WITH	:	
EMBEDDED OBJECTS AND METHODS	:	
FOR MAKING THE SAME	:	

This is in response to the petition filed March 24, 2005 requesting that the above-identified application be granted Special Status under Section 708.02 (VII) of the MPEP.

The petition has been considered and found to be deficient for the following reason: Section 708.02 VII requires applicant to provide copies of each of the references deemed most closely related to the claimed subject matter. No references were submitted with the petition.

Accordingly, the petition is **DENIED**.

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

RICK D. NYDEGGER
BRENT P. LORIMER
THOMAS R. VUKSINICK
LARRY R. LAYCOCK
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JAMES B. BELSHE
KIRK R. HARRIS
KEELY SCHNEITER
MICHAEL M. BALLARD
DAVID A. JONES
SHANE K. JENSEN
JONATHAN M. BENNS, PH.D.

VERNON R. RICE §
OF COUNSEL

* Admitted only in California
§ Admitted only in Virginia

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PATENT APPLICATION
Docket No.: 15999.16.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:		)
	Eric M. Adickes	)
Serial No.:	11/061,423	) Art Unit 1772
Confirmation No.:	6769	)
Filed:	February 18, 2005	)
For:	ARCHITECTURAL GLASS PANELS WITH EMBEDDED OBJECTS AND METHODS FOR MAKING THE SAME	)
Examiner:	Unassigned	)

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

TRANSMITTAL LETTER

Sir:

Transmitted herewith for filing is a Petition Under 37 C.F.R. § 1.102(d) (Correction of Deficiency).

Enclosed are the following:

X A Petition Under 37 CFR 1.102(d) (Correction of Deficiency), including Exhibits A, B, and C (35 pages).

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUN 28 2005

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of
David E. Francischelli, et al.
Application No. 11/061,425
Filed: February 18, 2005
Attorney Docket No. P-8498.04

This is a decision in response to the petition, filed November 19, 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 May 4, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 5, 2007. On November 19, 2007, an amendment, terminal disclaimer, 3-month petition for extension of time and the present petition were filed. A Notice of Abandonment was subsequently mailed on November 23, 2007.

It is initially pointed out that the petition is not signed by an attorney or agent of record; however, in accordance with 37 CFR 1.34(a), the signature of James R. Keogh 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.

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

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

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. The extension of time submitted on November 19, 2007 was filed when the provisions of 37 CFR 1.136 could no longer be used. Therefore, this application became abandoned when the unextended time for response had expired, i.e., May 4, 2007. Since, no

extension of time fees are due on a petition for revival, petitioner is entitled to a refund of the $1,050 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

The application is being referred to Technology Center AU 3739 for consideration of the amendment filed November 19, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES R. KEOGH
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY
MINNEAPOLIS, MN 55432

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INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI OH 45224

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OFFICE OF PETITIONS

In re Application of	:	
Weis et al.	:	
Application No. 11/061,426	:	DECISION ON PETITION
Filed: 18 February, 2005	:	
Atty Docket No. 9916	:	

This is a decision on the petition filed on 8 December, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 5 June, 2005, for failure to timely submit an executed oath or declaration and surcharge for its late filing in response to the Notice to File Missing Parts of Nonprovisional Application mailed on 4 April, 2005, which set a two (2) month shortened period for reply. No extensions of

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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)).

time in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 December, 2005.

The present petition is accompanied by an executed declaration and the late-filing surcharge.

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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NEW YORK, NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Tsukasa Sako	:	
Application No.: 11/061,439	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No.: 03500.014439.1	:	

This is a decision on the petition, filed October 28, 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 September 26, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2622 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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ANN ARBOR MI 48104

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MAR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Moreland et al.	:	
Application No. 11/061461	:	ON PETITION
Filing or 371(c) Date: 02/18/2005	:	
Attorney Docket Number:	:	
121051-0007	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed January 16, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed February 6, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been filed, the application became abandoned May 7, 2007. A Notice of Abandonment was mailed October 18, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that Applicant has filed (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 1641 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

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

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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JACOBSON, PRICE, HOLMAN & STERN
PROFESSIONAL LIMITED LIABILITY COMPANY
400 Seventh Street, N.W.
Washington, DC 20004

Mail Date: 04/21/2010

Applicant	: Peter Vogl	: DECISION ON REQUEST FOR
Patent Number	: 7594572	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/061,479	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **95** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AMIN & TUROCY, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND, OH 44114

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of:	:	
Meredith et al.	:	
Application No. 11/061,487	:	DECISION GRANTING
Filed: February 18, 2005	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
MODEL FOR BUSINESS WORKFLOW	:	
PROCESSES	:	

This is in response to the Petition Under 37 CFR § 1.47, FILED June 15, 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 properly treated under under 37 CFR § 1.47(a).

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, Lucius G. Meredith, cannot be found or reached after diligent effort.

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

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

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

Derek L. Woods
Attorney
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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MR. LUCIUS G. MEREDITH
4245 GREENWOOD AVENUE NORTH
SEATTLE, WA 98103

In re Application of:	:	
Meredith et al.	:	
Application No. 11/061,487	:	LETTER
Filed: February 18, 2005	:	
Title of Invention:	:	
MODEL FOR BUSINESS WORKFLOW	:	
PROCESSES	:	

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JUL 13 2005
OFFICE OF PETITIONS

Dear Mr. Meredith:

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: AMIN & TUROCY, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND, OH 44114

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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND, OH 44114

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MAR 04 2008

In re Application of	:	
Lucius G. Meredith, et. al.	:	
Application No. 11/061,487	:	DECISION ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No.	:	
MS147248.02/MSFTP101USA	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional 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. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

The petition fails to satisfy item (1) above. In this regard, the amendment submitted with the petition references a patent number rather than the application number. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed **application** is submitted at such time during the pendency of the application as required by the Director. [Emphasis supplied.]

Note also CFR 1.78(a)(2)(i), which states, in relevant part:

> Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications * * * must contain or be amended to contain a reference to each such prior-filed application, **identifying it by application number (consisting of the series code and serial number)** *** and indicating the relationship of the applications. [Emphasis supplied.]

Additionally, it is noted that Patent No. 6,516,322, herein referred to as Application No. 09/560,223 was patented on February 4, 2003, which was before Application No. 10/306,531 was filed on February 18, 2005. Thus, there was no copendency between these two applications.

Further, the reference to add the above-noted, prior-filed application 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).

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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CLEVELAND, OH 44114

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JUN 23 2008

In re Application of	:	
Lucius G. Meredith, et. al.	:	
Application No. 11/061,487	:	DECISION ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No.	:	
MS147248.02/MSFTP101USA	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed on April 24, 2008.

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.

Petitioner argues that "Application Serial No. 10/306,531 which is entitled to the benefit of the filing date of U.S. Patent No. 6,516,322 was not patented, abandoned or terminated at the time of the delayed priority claim of the subject application". Petitioner further argues that no new subject matter is being added to the application. However, the petition fails to satisfy the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application. In this regard, the amendment references a patent number rather than the application number. *Note* 35 U.S.C. § 120, which provides, in relevant part:

> No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed **application** is submitted at such time during the pendency of the application as required by the Director. [Emphasis supplied.]

Note also CFR 1.78(a)(2)(i), which states, in relevant part:

> Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications * * * must contain or be amended to contain a reference to each such prior-filed application, **identifying it by application number (consisting of the series code and serial number)** *** and indicating the relationship of the applications. [Emphasis supplied.]

Petitioner should note that the specification filed on November 19, 2007 references Patent No. 6,516,322 instead of the application number (09/560,223) as required above.

Additionally, Office records show that the correct filing date for Application No. 10/306,531 is November 27, 2002. Therefore, any supplemental ADS or amendment should set forth the correct filing date of Application No. 10/306,531.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

By mail: Mail Stop PETITIONS
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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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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JUL 23 2008

In re Application of Lucius G. Meredith, et. al. Application No. 11/061,487 Filed: February 18, 2005 Attorney Docket No. MS147248.02/MSFTP101USA	: : : : : :	DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 14, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional applications set forth in the amendment filed on April 24, 2008.

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 2192, 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 the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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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
11/061,487	02/18/2005	2192	1000	MS147248.02/MSFTP101USA	20	3

CONFIRMATION NO. 3881

CORRECTED FILING RECEIPT

27195
AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND, OH 44114

OC000000031032497

Date Mailed: 07/18/2008

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)

Lucius G. Meredith, Seattle, WA;
Amit Mital, Kirkland, WA;
Marc Levy, Woodinville, WA;
Brian Beckman, Newcastle, WA;
Anthony Andrews, Redmond, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number 27195

Domestic Priority data as claimed by applicant

This application is a CIP of 09/560,373 04/28/2000 PAT 7,409,671
and is a CIP of 10/306,531 11/27/2002 PAT 7,376,663
which is a CON of 09/560,223 04/28/2000 PAT 6,516,322

Foreign Applications

If Required, Foreign Filing License Granted: 03/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/061,487**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Model for business workflow processes

Preliminary Class

717

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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MELVIN K. SILVERMAN
500 WEST CYPRESS CREEK ROAD
SUITE 500
FT. LAUDERDALE FL 33309

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DEC 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
R. Edward Moreth III, et al.	:	
Application No. 11/061,491	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 1095.033.1	:	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 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, "applicant will assume the prosecution", 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: R. Edward Moreth, III
3290 NE 33rd Street
Fort Lauderdale, FL 33308

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SUITE 500
FT. LAUDERDALE, FL 33309

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
R. Edward Moreth III, et. al.	:	
Application No. 11/061,491	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. 1095.033.1	:	

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

The petition is **DISMISSED**.

The application became abandoned for failure to timely file a reply to the Notice of Allowance and Fee(s) Due mailed January 23, 2007.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee required by 37 CFR 1.17(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) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks items (1) and (3) above.

With respect to item (1), the Office acknowledges receipt of $700 for payment of the issue fee received on August 30, 2007. However, petitioner failed to submit $750 for treatment of the present petition, as well as, $300 for payment of the publication fee. Therefore, fees totaling $1,050 must be submitted.

With respect to item (3), the statement of unintentional delay cannot be accepted, since the present petition is signed by one of two inventors. 37 CFR 1.33(b) states:

> Amendments and other papers filed in the application 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 undivided 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.

If the instant petition is signed or submitted on behalf of the assignee, the assignee must comply with the requirements of 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) can be found on the USPTO website (PTO/SB/96).

Further, there is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Office.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioner is advised that this is **not** a final agency decision.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Privacy Act Statement
Blank Fee(s) Transmittal Form (PTOL-85)

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.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.

TITLE OF INVENTION:

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE

EXAMINER	ART UNIT	CLASS-SUBCLASS

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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. Edward Moreth, III
3000 NE 19th Street
Fort Lauderdale, FL 33305

COPY MAILED

FEB 08 2008

OFFICE OF PETITIONS

In re Application of	:	
R. Edward Moreth III et. al.	:	
Application No. 11/061,491	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. 1095.033.1	:	

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

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $300 for the publication fee[1]; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Change of Correspondence Address filed on October 4, 2007 has been accepted and made of record.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] $700 for payment of the issue fee was previously submitted on August 30, 2007.

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.

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

COPY MAILED

DEC 22 2009

OFFICE OF PETITIONS

In re Patent No. 7,529,239	:	
Kari Seppanen	:	DECISION ON REQUEST
Issue Date: May 5, 2009	:	FOR
Application No. 11/061,492	:	RECONSIDERATION OF
Filed: February 17, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 08-102-US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)" filed March 20, 2009. Patentees request that the patent term adjustment indicated on the patent be corrected from five hundred sixty-two (562) days to eight hundred forty (840) days.

The request is **DISMISSED**.

Patentee is given TWO (2) MONTHS to respond to this decision. No extensions of time will be granted under § 1.136(a).

Pursuant to § 1.705(b), this section requires payment of:

(1) The fee set forth in § 1.18(e) ...

The instant paper was timely filed within two months of the issuance of the patent. However, neither the fee under § 1.18(e) nor a general authorization to charge any required fees, accompanied the request. Payment of the fee is a prerequisite to consideration of the request for reconsideration of patent term adjustment. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (b)(1) to submit the fee under § 1.18(e).

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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APR 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Tetsuo Tsutsui et al	:	
Application No. 11/061,500	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0553-0342.01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 11, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 22, 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.*

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. 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. : 7,420,203 B2

APPLICATION NO.: 11/061,500

ISSUE DATE: : September 2, 2008

INVENTOR(S) : Tetsuo TSUTSUI; Hiroko YAMAZAKI and Satoshi SEO

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

On The Cover Page:

Under (56) References Cited: OK TO ENTER: /S.R.W./

FOREIGN PATENT DOCUMENTS:

Add: --JP 11-283750; published 10/15/1999--.

--JP 2000-306676; published 11/02/2000--.

OTHER PUBLICATIONS:

Add: --Office Action re Japanese Patent Application no. JP 2006-265113, dated October 30, 2007 (with complete English translation - "Notification of Reasons for Refusal")--.

--Memorandum and Order, International Manufacturing and Engineering Services Co., v. Semiconductor Energy Laboratory Co., Ltd., Civil Action no. 06-1230 (JDB), US District Court, District of Columbia, dated January 7, 2008--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Mark J. Murphy
COOK ALEX Ltd.
200 West Adams Street, Suite 2850
Chicago, Illinois 60606
(312) 236-8500

American LegalNet, Inc.
www.USCourtForms.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081030

DATE : November 04, 2008

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7420203

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:

IDS was considered

/SUE A PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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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OCT 2 6 2006
OFFICE OF PETITIONS

BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON DC 20001

In re Application of	:	
Hideyuki Kawai	:	
Application No. 11/061,519	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 006582.00009	:	FROM RECORD
	:	

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 and March 7, 2006.

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

A review of the file record indicates that the power of attorney to Christopher R. Glembocki and those practitioners associated with customer number 22907 have been revoked by the assignee of the patent application on February 27, 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 inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Harness, Dickey & Pierce, PLC
5445 Corporate Drive
Troy, MI 48098

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
11/061,519	02/22/2005	Hideyuki Kawai	006582.00009

CONFIRMATION NO. 5590

OC000000020867593

22907
BANNER & WITCOFF
1001 G STREET N W
SUITE 1100
WASHINGTON, DC 20001

Date Mailed: 10/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2006.

- 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).

CHARLES SMOOT
OP (571) 272-3299

FORMER ATTORNEY/AGENT COPY

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
11/061,519	02/22/2005	Hideyuki Kawai	006582.00009

CONFIRMATION NO. 5590

OC000000020867626

27572
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Date Mailed: 10/17/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/27/2006.

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.

CHARLES SMOOT
OP (571) 272-3299

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Wu, et al.	:	
Application No. 11/061,529	:	DECISION ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 54334US019	:	

This is a decision on the paper titled "PETITION UNDER 37 C.F.R. 1.53(e)(2)", filed April 12, 2005, which is properly treated as a petition under 37 CFR 1.182 requesting that the above-identified application be accorded a filing date of February 22, 2005.

The instant application was deposited on February 22, 2005, claiming the benefit of priority to application 10/630,414. However, the instant application omitted a copy of the drawings. Accordingly, on March 18, 2005, the Office of Initial Patent Examination properly mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

In response, petitioner filed the present petition on April 12, 2005, together with a copy of the omitted drawings. Petitioner does not dispute the fact that no drawings were filed in the instant application. Rather, petitioner points out that he incorporated application 10/630,414 by reference in the specification.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. **A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application.** An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.[1]

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.[2] Here, applicants omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was able to be accorded at the time of filing. However, petitioner properly incorporated application 10/630,414 by reference. In addition, applicants submitted the omitted drawings and paid the $400 petition fee. Accordingly, the application is entitled to a filing date of April 12, 2005.

In view thereof, the petition is **GRANTED**.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of February 22, 2005, using the application papers received in the Office on that date and the five (5) sheets of drawings supplied on petition filed April 12, 2005, as well as the substitute specification filed on April 12, 2005. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] MPEP 201.06(c) (emphasis added).

[2] See id.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 000449, 001701
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Kazushige Muroi	: DECISION ON REQUEST FOR
Patent Number	: 7642739	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/061,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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OFFICE OF PETITIONS

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of	:	
Stephen C. Stehney	:	
Application No. 11/061,551	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 47113-0147	:	

This is a decision on the petition, filed February 13, 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 December 26, 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 3673 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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GLAXOSMITHKLINE
CORPORATE INTELLECTUAL PROPERTY, MAI B475
FIVE MOORE DR., PO BOX 13398
RESEARCH TRIANGLE PARK NC 27709-3398

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APR 2 5 2008

OFFICE OF PETITIONS

In re Patent No. 7,084,147	:
Issued: August 1, 2006	:
Application No. 11/061,578	: DECISION DISMISSING PETITION
Filed: February 18, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. PU3743US2	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 11, 2008 to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of priority to prior-filed international application designating the United States of America (Application No. PCT/US00/18128, filed June 30, 2000).

The petition under 37 CFR 1.78(a)(3) is **DISMISSED** as involving moot issues.

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 petition seeks acceptance of a late claim for priority to a prior-filed PCT national stage application by way of an amendment to the specification, which reads: "This application is a divisional of United States Serial No. 10/030,527 filed on January 9, 2002, now U.S. Patent No. 6,933,299, which was filed pursuant to 35 U.S.C § 371 as a United States National Phase Application of International Application No. PCT/US00/18128, filed June 30, 2000, which claims priority from GB9916213.3 and GB9916218.2 filed July 9, 1999".

As set forth in MPEP 1893.03(c), page 1800-199, 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.

In view of the above, the petition under 37 CFR 1.78(a)(3) is dismissed as involving a moot issue.

In view of the dismissal of the instant petition as moot, the $1,410 petition fee is not necessary and will be credited back to petitioner's deposit account 07-1392 in due course. As well, the certificate of correction filed with the instant petition will not be entered and the $100 certificate of correction fee submitted with the instant petition will also be credited back to petitioner's deposit account 07-1392 in due course.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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

Anthony Knight
Supervisor
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Satoshi Yanagisawa et al	:	
Application No. 11/061,624	:	DECISION GRANTING PETITION
Filed: February 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 266501US2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 27, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 27, 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 2823 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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/23/2010

Applicant	: Sergio Cabrini	: DECISION ON REQUEST FOR
Patent Number	: 7602776	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/061,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1214** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JOHN G. POSA
GIFFORD KRASS GROH SPRINKLE
ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY, MI 48007-7021

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APR 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Morton Bertram III	:	
Application No. 11/061,670	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. MBE-10702/29	:	

This is a decision on the petition under 37 CFR 1.10(d), filed March 10, 2005, requesting that the above-identified application be accorded a filing date of February 18, 2005.

Petitioner asserts that the application was deposited in Express Mail service on February 18, 2005, pursuant to the requirements of 37 CFR 1.10 and requests that the application be accorded a filing date of February 18, 2005. A review of the official record discloses that the corrected filing date was already given as shown by its conclusion on the filing receipt mailed April 5, 2005. Therefore, no change in the official filing date is required.

The petition is dismissed as moot. No petition fee is required and none has been charged.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 3738 for examination in due course.

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JAN 28 2009

OFFICE OF PETITIONS

In re Application of Morton Bertram, III Application No. 11/061,670 Filed: February 18, 2005 Attorney Docket No. MBE-10702/29	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application.

The petition 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 under 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3738 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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Kunzler Needham Massey & Thorpe
8 EAST BROADWAY, SUITE 600
SALT LAKE CITY, UT 84111

Mail Date: 04/20/2010

Applicant	: Daryl Carvis Cromer	: DECISION ON REQUEST FOR
Patent Number	: 7630713	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/061,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **110** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MORGAN, LEWIS & BOCKIUS LLP
2 Palo Alto Square
3000 El Camino Real
Palo Alto CA 94306

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Andrew H. Quintero, et al.	:	
Application No. 11/061,675	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 61468-5001	:	FROM RECORD
	:	

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 12, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the three certification boxes on the PTO/SB/83 form were left unchecked.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thomas D. Kohler**
Downs Rachlin Martin PLLC
199 Main Street
P.O. Box 190
Burlington, VT 05402-0190

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AUG 31 2005

In re Application of	:	
James R. Maxwell	:	DECISION ON
Serial No. 11/061,676	:	PEITION TO
Filed: February 18, 2005	:	MAKE SPECIAL
For: FOLDABLE INSULATED FOOD BOX	:	

Applicant's petition, filed February 18, 2005, seeks to have this application made special based upon the Energy Conservation Program.

The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VI) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

James T. Robinson
Exclusivity-Law, Inc.
222 East Main Street
Norman, OK 73069-1303

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QUARLES & BRADY LLP
33 E. MAIN ST, SUITE 900
P.O BOX 2113
MADISON, WI 53701-2113

Mail Date: 04/20/2010

Applicant	: Robert M. Engelke	: DECISION ON REQUEST FOR
Patent Number	: 7660398	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/061,682	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1006** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUTHERLAND ASBILL & BRENNAN
LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of	:	
Lloyd, et al.	:	
Application No. 11/061,698	:	ON APPLICATION FOR
Filed: February 18, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 22021-0007	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed August 18, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred sixty-one (961) days[1], not six hundred ninety-nine (699) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction in part on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance 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 delay resulting from

[1] This calculation is based on a projected issuance date of January 19, 2010.

the filing of an amendment under 37 CFR 1.312 on August 13, 2009, a reduction under § 1.704(c)(10), has properly not yet been considered. 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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

---

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

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 Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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In re Application of	:	
COLICH	:	
Application No. 11/061,704	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 022000-001500US	:	FROM RECORD
	:	

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, 2006.

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

A review of the file record indicates that the power of attorney to Raymond B Hom of TOWNSEND TOWNSEND & CREW LLP has been revoked by the assignee of the patent application on September 28, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: WILDMAN HARROLD ALLEN & DIXON LLP
AND THE BOEING COMPANY
225 W. WACKER DR.
CHICAGO, IL 60606

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/061,704	02/17/2005	Joseph M. Colich	022000-001500US

CONFIRMATION NO. 9850

OC000000021509188

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

Date Mailed: 12/07/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2006.

- 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).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/061,704	02/17/2005	Joseph M. Colich	022000-001500US

CONFIRMATION NO. 9850

OC000000021509195

55132
WILDMAN HARROLD ALLEN & DIXON LLP
AND THE BOEING COMPANY
225 W. WACKER DR.
CHICAGO, IL 60606

Date Mailed: 12/07/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/28/2006.

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/01/2010

Applicant	: Phillip Hawkes	: DECISION ON REQUEST FOR
Patent Number	: 7623656	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/061,708	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1161** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Rosenfeld, et al. :
Application No. 11/061,715 : ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. 2483-003 :
For: **SYSTEM AND METHOD FOR STANDARDIZING CARE IN A HOSPITAL ENVIRONMENT**

This is a decision on the petition treated under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **Granted**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional 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 applications is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, application no. 09/443,072, filed November 18, 1999, was filed within twelve months of the filing date of the newly claimed prior-filed provisional application, Application No. 60/141,520, filed on June 23, 1999.

The petition complies with the requirements for a grantable petition under 37 CFR §§1.78(a)(3) and 1.78(a)(6) in that (1) a reference to the prior-filed nonprovisional and provisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay.

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 contained in the instant petition varies from the required language, the statement will be construed as the statement required by 37 CFR 1.78(a)(3)and 1.78(a)(6). Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 119(e) to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 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 <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230. 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 3736 for appropriate action on the amendment submitted November 3, 2005, including consideration by the examiner of the claims under 35 U.S.C. § §120 and 37 CFR 1.78(a)(2) and 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed applications.

Frances Hicks
Lead 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
11/061,715	02/18/2005	3736	1000	2483-003	67	30	2

CONFIRMATION NO. 9860

CORRECTED FILING RECEIPT

OC000000018100264

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

Date Mailed: 02/21/2006

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

Applicant(s)

Brian A. Rosenfeld, Baltimore, MD;
Michael Breslow, Lutherville, MD;

Assignment For Published Patent Application

VISICU, Inc.

Power of Attorney:

John Abokhair--30537
Jon Roberts--31293
Kevin Pontius--37512
Christopher Kilner--45381
Elliott Light--51948

Domestic Priority data as claimed by applicant

This application is a CIP of 10/946,548 09/21/2004
which is a CIP of 09/443,072 11/18/1999 PAT 6,804,656
which claims benefit of 60/141,520 06/23/1999
This application 11/061,715
is a CIP of 10/654,668 09/04/2003
which is a CIP of 09/443,072 11/18/1999 PAT 6,804,656

Foreign Applications

If Required, Foreign Filing License Granted: 03/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/061,715

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System and method for standardizing care in a hospital environment

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

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JUL 21 2008

In re Application of	:	
Brian A. Rosenfeld, et al.	:	
Application No. 11/061,715	:	DECISION GRANTING PETITION
Filed: February 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2483-003	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 13, 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 3626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
Mclean, VA 22102

In re Application of :

Bertolt Eicke :
Application No. 11/061,732 : DECISION ON PETITION
Filed: February 22, 2005 : TO WITHDRAW
Attorney Docket No. 449122080000 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 2007.

The request is **APPROVED**.

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

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

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

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bertolt Eicke**
Am Wiselbau 20
Berlin, 14169
Germany

cc: **Kevin Spivak**
Bell, Boyd & Lloyd LLC
70 West Madison Street
Suite 3100
Chicago, IL 60602-4207

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/061,732	02/22/2005	Bertolt Eicke	449122080000

CONFIRMATION NO. 2180

OC000000025973864

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 09/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/17/2007.

- 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.

Terri Williams

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

FORMER ATTORNEY/AGENT COPY

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DANIEL J SWIRSKY
55 REUVEN ST.
BEIT SHEMESH 99544
ISRAEL

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Sheraizin et al.	:	
Application No. 11/061,734	:	DECISION ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 1422-US	:	

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2624 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

Mail Date: 04/21/2010

Applicant	: Hitoshi Akiyama	: DECISION ON REQUEST FOR
Patent Number	: 7590241	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/061,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1096** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Craig R. Nelson et al.	:	
Application No. 11/061,751	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 040699-0148	:	FROM RECORD
	:	

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 5, 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 Richard C. Peet and all attorneys/agents of record has been revoked by the assignee of the patent application on December 6, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

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Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Thorsten Meyer et al.	:	
Application No. 11/061,762	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 543822012200	:	FROM RECORD
	:	

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 13, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on July 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Eschweiler & Associates LLC**
National City Bank Building
Cleveland, OH 44114

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 6, 2009

TO SPE OF : ART UNIT 2825 – Jack Chiang

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/061,765 Patent No.: 7,539,954 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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OFFICE OF PETITIONS

In re Application :
Jonathan R. Cohen et al. :
Application No. 11/061,789 : DECISION ON APPLICATION
Filed: February 18, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **345288025US** :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F,R. § 1.705(B) filed February 23, 2009. Applicant requests that the determination of patent term adjustment be corrected from four hundred sixty-three (463) days to nine hundred fifty-four (954) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d) if applicant is seeking reconsideration of the amount awarded under 1.702(b). The USPTO notes that it does not calculate the

amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Applicant calculates a total reduction of 92 days for applicant delay including 62 days for responding on March 20, 2008 to an Office Action mailed on October 18, 2007 and 30 days for responding on October 13, 2008 to an Office Action mailed June 13, 2008.

Applicant is advised that the period of reduction in the amount of 85 days for applicant delay was properly calculated at the time the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The response to the October 18, 2007 was filed March 13,2008, not March 20, 2008 and thus the reduction was properly stated as 55 days plus 30 days for responding on October 13, 2008 to the June 13, 2008.

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

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

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

Kery A. Fries

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/14/09

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 11061789 Patent No.: 7545359 B1

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte

Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/ALEXANDER EISEN/ AU2629

SPE Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090715

DATE : July 21, 2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,545,359

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: /Alexander Eisen/ **Art Unit** 2629

OK to Enter.
VS
7/15/09

Docket No.: 345288025US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Cohen et al.

Patent No.: 7,545,359

Issued: June 9, 2009

For: COMPUTERIZED INTERACTOR SYSTEMS AND METHODS FOR PROVIDING SAME

REQUEST FOR CERTIFICATE OF CORRECTION
PURSUANT TO 37 CFR 1.323

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

Upon reviewing the above-identified patent, Patentee noted typographical errors which should be corrected.

The applicant(s) requests a Certificate of Correction to correct the errors in the above-identified patent, which are listed on the attached Form PTO/SB/44.

Some of the errors were found in the application as filed by applicant. Please charge the amount of $100.00 to EFT Account SEA1PIRM covering the fee set forth in 37 CFR 1.20(a).

The errors now sought to be corrected are inadvertent typographical errors the correction of which does not involve new matter or require reexamination.

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0665, under Order No. 345288025US.

Dated: 7/2/09

Respectfully submitted,

By

Christopher J. Daley-Watson
Registration No.: 34,807
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8000
(206) 359-7198 (Fax)
Attorney for Applicant

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. : 7,545,359

APPLICATION NO.: 11/061,789

ISSUE DATE : June 9, 2009

INVENTOR(S) : Jonathan R. Cohen, et al.

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

In column 2, line 39-40, delete "This marble answering machine has been publicly known at least as of June, 1993." and insert the same on Line 38, after "again." as the continuation of the paragraph.

In column 4, line 56, after "invention" delete "." and insert - - ; - -, therefor.

In column 16, line 44, after "marker" (first occurrence) delete "identifier".

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Christopher J. Daley-Watson
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247

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.**

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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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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AUG 17 2009

OFFICE OF PETITIONS

In re Patent No. 7,545,359	:
Issued: June 9, 2009	: DECISION ON APPLICATION
Application No. 11/061,789	: FOR PATENT TERM ADJUSTMENT
Filed: February 18, 2005	:
Attorney Docket No. 345288025US	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(D)" filed July 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred sixty three (463) days to nine hundred forty (940) days.

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

On June 9, 2009, the above-identified application matured into US Patent No. 7,545,359 with a patent term adjustment of 463 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission on February 23, 2009 of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 940, which includes 477 days of patent term adjustment due to exceeding three year pendency and 548 days due to USPTO delay in prosecution."

The 477-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 18, 2005, and the patent having been issued on June 9, 2009, three years and 477 days later. Patentees assert that in addition to this 477-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 548 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (477 days) and the period of Examination Delay (548 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 1020 days, which is the sum of the period of Three Year Delay (477 days) and the period of Examination Delay (548 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 1020 days (477 + 548 reduced by 0 overlap – 85 (applicant delay)).

The Office agrees that as of the issuance of the patent on June 9, 2009, the application was pending three years and 477 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 548 days is correct. At issue is whether patentees should accrue 477 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 548 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 477 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June

21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 18, 2005, to the date the patent issued on June 9, 2009. Prior to the issuance of the patent, 548 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 477 days for Office delay in issuing the patent overlap with the 548 days of Office delay. During that time, the issuance of the patent was delayed by 548 days, not 548 + 477 days. The Office took 14 months and 548 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 477 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 477 days. The Office did not delay 548 days and then an additional 477 days. Accordingly, 548 days of patent term adjustment (not 548 and 477 days) was properly entered since the period of delay of 477 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 548 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 548

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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).

days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 477 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 463 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

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

Kery A. Fries

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

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BAKER & BOTTS
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Duval, et al.	:	
Application No. 11/061,793	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 071235.0127	:	FROM RECORD
	:	

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 20, 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, "transfer of the file to another firm", does not meet any the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Smart & Bigger
1000 De La Gauchetiere Street West
Montreal, Quebec H3B 4WD
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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REHOVOT 76209 IL ISRAEL

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:
Turgeman, et al.	: CORRECTED DECISION
Application No. 11/061,818	: ON PETITION
Filed: February 22, 2005	:
Docket No.: 1409VBX-US	:

This decision is in response to the response submitted June 23, 2005 in response to the Notice of Incomplete Nonprovisional Application (Notice) mailed April 12, 2005. This matter is being treated as a petition to accord the above-identified application a filing date of February 22, 2005 with one drawings sheet as part of the application as originally filed.

The petition is hereby **GRANTED**.

The application was filed February 22, 2005. The Notice indicated that the application had not been accorded a filing date because the application appeared to have been deposited without drawings as required.

In response, petitioners argue that the application as deposited included one drawing sheet. Petitioners have included as proof of mailing and proof of receipt of the drawing sheet a return postcard date stamped by the Office on February 22, 2005. A copy of the drawing sheets purportedly filed with the application on February 22, 2005 was also supplied.

The original drawing sheets submitted with the application papers have not been located. However, in view of the evidence presented, the Notice is hereby WITHDRAWN and the petition to accord the application a filing date of February 22, 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. A refund of the previously submitted petition fee has been requested by the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 22, 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

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

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SEP 03 2009

OFFICE OF PETITIONS

In re Application of
Udo SCHUTZ
Application No. 11/061,851
Filed: February 18, 2005
Attorney Docket No. **PR-71**

DECISION ON PETITION
UNDER 37 CFR 1.137(a)

This is a decision on the petition under 37 CFR 1.137(a), filed June 30, 2009, to revive the above-identified application.

The petition is **dismissed**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $540. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by the proper fee payment required. The fee submitted $130, is deficient by $410. No consideration on the merits can be given that petition until the required fee is received.

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

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 Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. BOX 10395
CHICAGO IL 60610

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
CHRISTIAN BRULLE-DREWS	:	LETTER REGARDING PATENT
Application No. 11/061,859	:	TERM ADJUSTMENT
Filed: February 18, 2005	:	
Attorney Docket No. 11336/900	:	
(P04034US)	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed February 13, 2008. Applicants requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the determination of patent term adjustment (PTA) is **dismissed**.

On November 27, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 17 days. On February 13, 2008, applicants submitted the instant comment. Applicants direct the Office's attention to the filing of a Request for Continued Examination on May 8, 2007, after the filing of a Notice of Appeal on February 6, 2007. Specifically, applicants question whether they should be assessed a delay of 2 days for the period from the filing of the Notice of Appeal until the filing of the Request for Continued Examination.

A review of the application history confirms that the period of adjustment of 55 days for Office delay and 38 days of reduction for applicant delay are correct.

The Office notes that within the period to take action after the filing of a Notice of Appeal, an applicant may file an appeal brief or a Request for Continued Examination. Neither of these actions constitutes a failure to engage in reasonable efforts to conclude prosecution of the application within the meaning of 37 CFR 1.704(c)(8). Accordingly, the filing of the Request for Continued Examination on May 8, 2007, is not a supplemental reply or other paper within the meaning of 37 CFR 1.704(c)(8).

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains **17 days**.

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

The application is being referred to the Office of Patent Publications for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 07 2010

OFFICE OF PETITIONS

ROBINSON INTELLECTUAL PROPERTY LAW OFFICE, P.C.
3975 FAIR RIDGE DRIVE
SUITE 20 NORTH
FAIRFAX, VA 22033

In re Application of	:	
Hirokazu Yamagata, et al.	:	
Application No.: 11/061,861	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No.: 0756-7483	:	

This is a decision on the petition, filed June 7, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 22, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2812 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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

MAILED

JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Vikram Chalana, et al.	:	
Application No. 11/061,867	:	DECISION GRANTING PETITION
Filed: February 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. VER1-1-1032	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 February 2, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3737 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/26/2010

Applicant	: John D. Hillam	: DECISION ON REQUEST FOR
Patent Number	: 7574385	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/061,868	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

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JUN 14 2006

OFFICE OF PETITIONS

Applicant: Mccutchen et al.
Appl. No.: 11/061,894
Filing Date: February 18, 2005
Title: METHODS FOR ENHANCING INSECT RESISTANCE IN PLANTS
Attorney Docket No.: 035718/286812
Pub. No.: US 2005/0188439 A1
Pub. Date: August 25, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 24, 2005, for the above-identified application.

Applicant requests that the application be republished because the patent application publication contains material errors, in the claims wherein "SEQ ID NO:11" is misprinted as "SEQ ID NO:1".

The request is granted.

At least one of the errors may have been due to the quality of the text in the application, as the numerals are a bit blurry. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

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

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OFFICE OF PETITIONS

In re Application of Abad, et al. Application No. 11/061,894 Filed: February 18, 2005 Attorney Docket No. 035718/286812	: : : : :	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed August 22, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

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

Receipt is hereby acknowledged of the required $400.00 petition fee.

This application is being referred to Technology Center AU 1600 for examination in due course.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/061,894	02/18/2005	1638	1380	035718/286812	20	2

CONFIRMATION NO. 5789

CORRECTED FILING RECEIPT

OC000000026014689

29122
ALSTON & BIRD LLP
PIONEER HI-BRED INTERNATIONAL, INC.
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Date Mailed: 09/26/2007

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)

Andre R. Abad, W. Des Moines, IA;
Billy F. McCutchen, Clive, IA;

Assignment For Published Patent Application

Pioneer Hi-Bred International, Inc., Des Moines, IA
E.I. duPont de Nemours and Company, Wilmington, DE

Power of Attorney: The patent practitioners associated with Customer Number **29122**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/546,533 02/20/2004
and claims benefit of 60/546,845 02/23/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/061,894

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods for enhancing insect resistance in plants

Preliminary Class

800

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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Harpman & Harpman
819 Southwestern Run
Youngstown, OH 44514

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OFFICE OF PETITIONS

In re Application of	:	
Jeff Westcott	:	
Application No. 11/061896	:	ON PETITION
Filing or 371(c) Date 02/18/2005	:	
Attorney Docket Number:	:	
513	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 11, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed April 21, 2006. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on July 22, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant has submitted the issue fee with the instant petition. Accordingly, the petition is granted.

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

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/2/09

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 11061904 Patent No : 7539944 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Kieu Vu/

SPE AU 2173

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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SEP 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Wales et al.	:	DECISION ON
Application No. 11/061,908	:	PETITION
Filed: February 18, 2005	:	
Atty Docket No. END5419USNP.	:	
0527943	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed May 9, 2008.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, November 19, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on February 20, 2008. A courtesy Notice of Abandonment was mailed on April 30, 2008.

In response, applicants filed the instant petition under 37 CFR 1.137(b). The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A

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

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

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

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

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

The instant petition does not satisfy requirement (1) above. The petition includes a proposed reply in the form of a request for continued examination (RCE) and Information Disclosure Statement, payment of the petition fee set forth in 37 CFR § 1.17(m), and the required statement of unintentional delay. No terminal disclaimer is required.

The RCE and IDS are not sufficient to meet the required reply requirement of 37 CFR 1.137(b). As stated in MPEP 711.03(c), in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Payment of the issue fee and publication fee at the amounts in effect on the date of payment is required to revive the application. (It is noted that the fees increase effective October 2, 2008).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of	:	
Wales et al.	:	DECISION ON
Application No. 11/061,908	:	PETITION
Filed: February 18, 2005	:	
Atty Docket No. END5419USNP.	:	
0527943	:	

This is a decision on the REQUEST FOR RECONSIDERATION UNDER 37 CFR § 1.137(B), filed October 9, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned effective February 20, 2008 for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, November 19, 2007, of the Notice of Allowance and Fee(s) Due. A courtesy Notice of Abandonment was mailed on April 30, 2008.

By decision mailed September 18, 2008, the prior PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed May 9, 2008 was dismissed. The petition did not satisfy 37 CFR 1.137(b)(1), which required submission of the required reply. The petition included a proposed reply in the form of a request for continued examination (RCE) and Information Disclosure Statement. The petition did not include as required payment of the issue fee and publication fee.

On instant request for reconsideration, applicants submitted the issue fee and publication fee. Applicants have now met all requirements for revival of the application under 37 CFR 1.137(b).

The application is being forwarded to Technology Center AU 3721 for consideration of the RCE and IDS filed April 28, 2008 and IDS filed October 9, 2008.

Applicants are reminded that to avoid abandonment of the application, they must file a response to any new Notice of Allowance (e.g. Part B of Issue Fee transmittal).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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APR 16 2009

OFFICE OF PETITIONS

In re Application of :
CONTA et al. :
Application No. 11/061,928 : ON APPLICATION FOR
Filed: 02/22/2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 69179-230324 :

This is in response to the "Request for Recalculation of Patent Term Adjustment" filed March 11, 2009. Applicant requests that the determination of patent term adjustment be increased to 507 days plus the amount of days between February 22, 2008 (three years from the filing date) and the date upon which the application issues as a patent. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany

the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of 37 CFR 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to the Deposit Account. No additional fees are required.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney, Christina Tartera Donnell, at (571) 272-3211.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office Patent Legal Administration

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Post Office Box 34385
Washington DC 20043-9998

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AUG 03 2009

OFFICE OF PETITIONS

In re Patent No. 7,533,463 :
Conta et al. :
Issue Date: May 19, 2009 : DECISION ON REQUEST FOR
Application No. 11/061,928 : RECONSIDERATION OF
Filed: February 22, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 69179-230324 :

This is in response to the "Request for Reconsideration on Recalculation of Patent Term Adjustment", filed July 6, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from five hundred seven (507) days to nine hundred fifty-nine (959) 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 507 days.

The above-identified application was filed on February 22, 2005. On May 19, 2009, the above-identified application matured into U.S. Patent No. 7,533,463 with a revised patent term adjustment of 507 days. The Office determined that the 452 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B)[1] and 37 CFR 1.702(b),

[1] 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[.]

overlap with the 599 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1).[3] As such, the Office allowed entry of only the period of adjustment of 599 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 92 days of applicant delay, the patent issued with a revised patent term adjustment of 507 days.

On July 6, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentees aver that the correct number of days of patent term adjustment is 959 days under the court's 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). Patentees assert that pursuant to Wyeth, periods of delay under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap only if they occur on the same calendar day or days. Patentees state that the total period of Office delay is the sum of the period of Three Years Delay (452 days) and the period of Examination Delay (599 days) to the extent that these periods of delay are not overlapping. Patentees contend no periods of delay attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and 35 U.S.C. 154(b)(1)(B) overlap. Therefore, patentees assert that they are entitled to the sum of 1051 (599 days of examination delay + 452 days of Three Years Delay) days of Office delay minus 92 days of applicant delay, for a total patent term adjustment of 959 days.

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[2] The Office did not mail a Restriction Requirement until December 12, 2007, 14 months and 599 days after the application was filed on February 22, 2005.

[3] 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[.]

The Office has considered patentees' interpretation of the period of overlap, but finds it 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)*[4] *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

---

[4] 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.

§ 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 37 CFR 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 date of filing of the application under 35 U.S.C. 111(a) on February 22, 2005, and ending on the date of the issuance of the patent on May 19, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 599 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), 452 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All 452 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 599 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 452 days and the 599 days is neither permitted nor warranted. 599 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment, having considered the 452 days of Office delay under the three-year pendency provision.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 507 days.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Evans & Molinelli, PLLC
U.S. Post Office Box 7024
Fairfax Station, VA 22039

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OFFICE OF PETITIONS

In re Application of

Don Gann et al.
Application No. 11/061,938
Filed: February 19, 2005
Attorney Docket No. UMB001-010

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 13, 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, **our client the University of Maryland is not pursuing this case, but is turned over to the inventors. The inventors did not....**, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Don Gann
1127 Greenspring Valley Road
Lutherville, MD 21093

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CHARLES MARTIN HYMES
P.O. Box 50604
EUGENE OR 97405

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SEP 30 2008

OFFICE OF PETITIONS

In re Application of :
Charles Martin HYMES :
Application No. 11/061,940 : DECISION ON PETITION
Filed: February 19, 2005 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 01, 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 25, 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 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 an amendment; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of September 25, 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 2617 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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SUNNYVALE CA 94085

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OFFICE OF PETITIONS

In re Application of	:
Seokmin Yun et al	:
Application No. 11/061,944	: DECISION ON PETITION
Filed: February 17, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LAM2P509	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/261,839, set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the

amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), 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

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[1] *Note* 37 CFR 1.121

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:
Seokmin Yun et al	:
Application No. 11/061,944	: DECISION ON PETITION
Filed: February 17, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LAM2P509	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 7, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1746 for appropriate action on the amendment filed June 7, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/061,944	02/17/2005	1746	1000	LAM2P509	11	20	3

CONFIRMATION NO. 4818

25920
MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

REPLACEMENT FILING RECEIPT

OC000000020985417

OC000000020985417

Date Mailed: 10/26/2006

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)

Seokmin Yun, Pleasanton, CA;
John M. Boyd, Atascadero, CA;
Mark Wilcoxson, Oakland, CA;
John deLarios, Palo Alto, CA;

Assignment For Published Patent Application

Lam Research Corp., Fremont, CA

Power of Attorney: The patent practitioners associated with Customer Number **25920**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/261,839 09/30/2002

Foreign Applications

If Required, Foreign Filing License Granted: 03/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/061,944

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Enhanced wafer cleaning method

Preliminary Class

134

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105-2482

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OFFICE OF PETITIONS

In re Application of	:	
Peter B. Darwood, et al.	:	
Application No. 11/061,958	:	DECISION ON PETITION
Filed: February 17, 2005	:	TO WITHDRAW
Attorney Docket No. 562492003600	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2009.

The request is **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 September 18, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: FITCH, EVEN, TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/061,958	02/17/2005	Peter B. Darwood	562492003600

CONFIRMATION NO. 5305

POWER OF ATTORNEY NOTICE

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OC000000038624615

Date Mailed: 11/05/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/18/2009.

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

/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

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

DEERE & COMPANY
ONE JOHN DEERE PLACE
MOLINE, IL 61265

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FEB 28 2008

In re Application of

Eubanks, et al.

Application No. 11/061,966

Filed: February 21, 2005

Attorney Docket No. 16883-US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed May 31, 2007, and in duplicate on February 1, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on December 18, 2006, after it was believed that a timely appeal brief was not filed after the filing of the Notice of Appeal on October 17, 2006.

Petitioner states that a Notice of Appeal responsive to the final Office action was filed on October 17, 2006, and that an Appeal Brief was filed April 17, 2007, with a request for an extension of time within the fifth month. A review of the application file history reveals that an Appeal Brief was filed on April 17, 2007, with a request for an extension of time within the fifth month. Pursuant to 37 CFR 1.136(a)(1), the time period for filing an Appeal Brief after the filing of a Notice of Appeal is extendable five additional months as the time period for filing an Appeal Brief is not set by statute and does not fall under of the exceptions provided in 37 CFR 1.136(a)(1). Based on the aforementioned, it appears that the application was improperly held abandoned as the Appeal Brief was received prior to expiration of the maximum period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3671 for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Gregory M. Friedlander
Gregory M. Friedlander & Associates, P.C.
11 South Florida Street
Mobile, AL 36606-1934

MAILED

JAN 29 2009

OFFICE OF PETITIONS

In re Application of
David Shawn Loving, et. al.
Application No. 11/061,972
Filed: February 16, 2005
Attorney Docket No. N/A

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2008, to revive the above-identified application.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Gary Friedlander appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The application became abandoned for failure to file a reply to the Restriction/Election Requirement mailed on March 6, 2008. A Notice of Abandonment was mailed on October 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2875 for further processing in accordance with this decision.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
YUSIBOV, Vidadi et al.	:	
Application No. 11/061,980	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. **2002645-0060**	:	FROM RECORD
	:	

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 25, 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 Brenda Jarrell on behalf of all attorneys of record who are associated with customer No. 24280. 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 Vidadi Yusibov at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **VIDADI YUSIBOV**
1808 MANOR ROAD
HAVERTOWN, PENNSYLVANIA 19083

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MAR 23 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Canon U.S.A. Inc.
Intellectual Property Department
15975 Alton Parkway
Irvine CA 92618-3731

In re Application of	:	
Ishimoto	:	DECISION ON REQUEST TO
Application No. 11/062005	:	PARTICIPATE IN PATENT
Filed: February 18, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 10010621US01	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 5, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

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Alexandria, VA 22313-1450
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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MAR 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,582,604	:	DECISION ON REQUEST
Vrijbloed et al.	:	FOR
Issued: September 1, 2009	:	RECONSIDERATION OF
Application No. 11/062,021	:	PATENT TERM ADJUSTMENT
Filed: February 18, 2005	:	and
Docket No. 753-46 PCT/CON	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 2, 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 four hundred sixty-five (465) 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 four hundred sixty-five (465) days is **GRANTED to the extent indicated herein.**

In calculating the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay"), patentees indicate the period of delay ended on September 22, 2008, the date the Notice of Allowance was mailed. However, the period of B Delay does not end when a Notice of Allowance is mailed.

Unless a Request for Continued Examination ("RCE") is filed, the period of B Delay ends of the date the patent issues. In this case, a RCE was filed December 22, 2008. Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)." The period of B Delay in this case is 307 days, which is the number of days beginning on

February 19, 2008, the day after the date three years after the filing date, and ending on December 21, 2008, the day before the date the RCE was filed.

The correct patent term adjustment is 566 days, which is the sum of 324 days of delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and 307 of B Delay minus 30 days of overlap minus 35 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The 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 **five hundred sixty-six (566)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,604 B2

DATED : **September 1, 2009** **DRAFT**

INVENTOR(S) : Vrijbloed, 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 289 days

Delete the phrase "by 289 days" and insert – by 566 days--

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/062,035	02/18/2005	James F. Corum	1003-100300

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, N.W., SUITE 1750
ATLANTA GA 30339-5948

DATE MAILED: October 24, 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 October 12, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Thomas J. Leck	: DECISION ON REQUEST FOR
Patent Number	: 7641809	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **837** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BAKER & BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

In re Application of	:	
SONNENSCHEIN, et al.	:	
Application No. 11/062,077	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. 0-05-205	:	FROM RECORD

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 30, 2006.

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

A review of the file record indicates that the power of attorney to BAKER & BOTTS L.L.P. has been revoked by the assignee of the patent application on December 09, 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 first copied address below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: KEVIN MCCARTHY
Roach, Brown, McCarthy & Gruber, P.C.
1620 Liberty Building
420 Main Street
Buffalo, NY 14202

cc: LUZZATTO & LUZZATTO
P.O. Box 5352
Beer-Sheva 84 152
ISRAEL

OIPE IAP77
SEP 16 2005
PATENT & TRADEMARK OFFICE

Attorney Docket: 137/15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Sol Wahba

Serial No.: 11/062,096

Filed: February 18, 2005

Title: DECORATIVE ATTACHMENT FOR PERSONAL PROPERTY

Examiner: Not Yet Assigned Baldwin, Gordon

Group Art Unit: 1775

PETITION TO MAKE SPECIAL BASED UPON ACTUAL INFRINGEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22231-1450

S I R:

Pursuant to Patent Rule 102, 37 C.F.R. §1.102, and M.P.E.P. §708.02(II), applicant herein petitions for an accelerated examination of the above-captioned application.

The application is new, and has not received any examination by an Examiner.

Applicant's undersigned attorney, registered with the U.S. Patent and Trademark Office under Registration No. 50,975, herein makes the following statement:

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Mail Stop: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on:

Dated: September 13, 2005 Signature Paula M. Kelsey

09/19/2005 ZJUHAR1 00000039 11062096
FC:1464 130.00 OP

PETITION GRANTED
SEP 28 2005
Richard Crispino
Richard Crispino
Special Program Examiner
TC 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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Shemwell Mahamedi LLP
4880 Stevens Creek Boulevard
Suite 201
San Jose, CA 95129

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AUG 1 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Joseph C. Fjelstad et al.	:	
Application No. 11/062,112	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. SIPI.P131	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2006.

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

A review of the file record indicates that the power of attorney to Shemwell Mahamedi LLP has been revoked by the assignee of the patent application on March 29, 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: **Law Offices of Ronald Shea**
2450 Country Hills Road, Apt. 192
Brea, CA 92821

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

Rupak Nag
Suite 1210
2170 Century Park East
Los Angeles CA 90067

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MAR 0 6 2006

OFFICE OF PETITIONS

In re Application of
Uday Kurkure
Application No. 11/062,118
Filed: February 19, 2005
Attorney Docket No. UK-P001
Title of Invention: System and Method of Targeting and Personalizing Advertisements and Generating Advertising Revenue

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed January 30, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on March 21, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 22, 2005. A Notice of Abandonment was mailed on December 7, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Rupak Nag
4406 Oakland Ave.
Minneapolis, MN 55407

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

EARLE JENNINGS
8 KENYON AVE
KENSINGTON, CA 94708

In re Application of
Robert Kavaler
Application No. 11/062,130
Filed: February 19, 2005
Attorney Docket No. SNSN-001

ON PETITION

This is a decision in response to the communication entitled "PETITION FOR REVIVAL OF AN APPLICATION ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))" filed May 21, 2007, which is being treated as a petition 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 September 29, 2006. A Notice of Abandonment was mailed on May 4, 2007. In response, on May 21, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

It is noted that petitioner included a 3-month extension of time with the present petition. 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, petitioner is entitled to a refund of the $510 extension fees included with this petition.

Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The application is being referred to Technology Center AU 2612 for consideration of the amendment filed May 21, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

DATE 10-9-07

APPLICATION NUMBER 11 062141

DOC CODE XRSH

DOC DATE 10-9-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 13, 2007

TO SPE OF : ART UNIT 1724

SUBJECT : Request for Certificate of Correction for Appl. No.: 11062141 Patent No.: 7056441 B1

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: The claim 16 change should not be made since the dissolved air flotation produces the "third filtrate output."

THOMAS M. LITTLE
PRIMARY EXAMINER
GROUP 1700

DUANE SMITH
SUPERVISORY PATENT EXAMINER
SPE

1724
Art Unit

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

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OCT 28 2008

In re Patent No. 7,056,441	:	
Issue Date: June 6, 2006	:	
Application No. 11/062,141	:	DECISION ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 2449.002US1	:	

This is a decision on the petition under 37 CFR 1.182, filed August 4, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 139.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICROBAN PRODUCTS COMPANY
11400 VANSTORY DRIVE
HUNTERSVILLE, NC 28078

Mail Date: 04/20/2010

Applicant	: Kenichi Kawasaki	: DECISION ON REQUEST FOR
Patent Number	: 7653869	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,142	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

KLAUS J. BACH
4407 TWIN OAKS LANE
MURRYSVILLE, PA 15668

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Spuller, et al :
Application No. 11/062,155 :
Filed: February 22, 2005 :
Attorney Docket No. TD 155 :

ON PETITION

This is a decision on the papers styled, "Petition Under 37 CFR 1.17(f)," filed March 22, 2005, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 22, 2005, including page 5 of the specification.

The application was filed on February 22, 2005. However, on March 17, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but page 5 of the specification appears to have been omitted.

In response, on March 22, 2005, the instant petition and a copy of page 5 of the specification were submitted. The instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "Specification including 10 pages" on February 22, 2005. A review of the application file indicates the presence of nine (9) pages of specification. It is assumed that page 5 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee, submitted March 22, 2005, will be refunded to deposit account no. 50-0465.

This application will be returned to OIPE for further processing with a filing date of February 22, 2005, using the copy of page 5 of the specification, supplied on March 22, 2005.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Jian Wang	: DECISION ON REQUEST FOR
Patent Number	: 7607076	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,166	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **729** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Jian Wang
Patent Number : 7607076
Issue Date : 10/20/2009
Application No : 11/062,166
Filed : 02/18/2005

: 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 **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Robinder N. Narula
2040 Main Street
14th Floor
Irving, CA 92614

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OCT 2 0 2005

Director's Office
Group 3700

In re Application of
Shanklin, et al.
Serial No. 11/062,171
Filed: February 18, 2005

DECISION ON PETITION TO MAKE SPECIAL

For: SINGLE VALVE READY TO USE HOSE END SPRAYER

Applicant's petition, filed February 18, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 10/19/05

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PAMELA R. CROCKER
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

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OCT 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter Labaziewicz et al	:	
Application No. 11/062,174	:	ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 87210/PRC	:	

This is a decision on the petition, filed October 10, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 18, 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 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/062,179	02/18/2005	James F. Corum	1003-100400

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 GALLERIA PARKWAY, N.W., SUITE 1750
ATLANTA GA 30339-5948

DATE MAILED: October 20, 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 October 12, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

In re Patent No. 7,532,875	:	
Issue Date: May 12, 2009	:	
Application No. 11/062,194	:	DECISION ON PETITION
Filed: February 18, 2005	:	
Attorney Docket No. 24998-11308	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION, filed June 9, 2009.

The petition is **DISMISSED.**

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) **the processing fee required by 37 CFR 1.17(i);**

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 **accompanied by the fee set forth in 37 CFR 1.20(a).**[2]

Petitioner has not submitted the $130 processing fee or the $100 fee for the Certificate of Correction.

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

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Gerhart Graupner	: DECISION ON REQUEST FOR
Patent Number	: 7605185	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STOEL RIVES LLP
ONE UTAH CENTER
201 SOUTH MAIN ST
SUITE 1100
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Warrick, et al.	:	DECISION ACCORDING STATUS
Application No. 11/062,227	:	UNDER 37 CFR 1.47(a)
Filed: February 18, 2005	:	
Attorney Docket No. 62504/11	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 27, 2005.

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

The above-identified application was filed on February 18, 2005, without an executed oath or declaration. Accordingly, on April 13, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration, together with a surcharge for its late filing. This Notice set an extendable period for reply of two months.

In reply, applicants filed the instant petition on May 27, 2005. Accompanying the petition was a declaration executed by inventors Bret R. Warrick, Geoffrey Wilson, and Michael M. Carrabba, with the signature block for inventor Richard DeFreez left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has established that inventor DeFreez was presented with a copy of the application papers, and has included a copy of an e-mail from DeFreez, indicating his refusal to execute 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 2856 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

Commissioner for Patents
United States Patent and Trademark Office
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RICHARD K DEFREEZ
4829 QUINES CREEK RD
AZALEA OR 97410

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of :
Brett R. Warrick, Geoffrey Wilson, :
Michael M. Carrabba, Richard DeFreez :
Application No. 11/062,227 :
Filed: February 18, 2005 :
Title: Integrated Assembly for
Delivery of Air Stream for Optical
Analysis

LETTER

Dear Mr. DeFreez:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Matthew S. Bethards
Stoel Rives LLP
One Utah Center
201 S Main St Ste 1100
Salt Lake City, UT 84111
(801)578-6992

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Kevin M. Beale	: DECISION ON REQUEST FOR
Patent Number	: 7593962	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,229	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **551** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 05/17/2010

Applicant : Kevin M. Beale
Patent Number : 7593962
Issue Date : 09/22/2009
Application No : 11/062,229
Filed : 02/18/2005

: 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 **659** 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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Robert A. Yoppolo	: DECISION ON REQUEST FOR
Patent Number	: 7579105	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,232	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NOV 22 2006
DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

HUNTON & WILLIAMS LLP
Riverfront Plaza, East Tower
951 E. Byrd Street
Richmond VA 23219-4074

In re Application of:
GRAVES, PHILLIP CRAIG, et al.
Serial No.: 11/062,249
Filed: February 18, 2005
Title: **USING MULTIPLE PINS FOR REDEMPTION THROUGH MULTIPLE DISTRIBUTION CHANNELS**

DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on November 16, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

The petition to make the application special is **DENIED**.

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323) and effective August 25, 2006, the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) at least because the application, the petition and the required fees were not filed together electronically using the USPTO's electronic filing system (EFS), or EFS-web.

For the above-stated reason, the petition is denied. The application will therefore be taken up by the examiner for action in its regular turn.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 20, 2009

TO SPE OF : ART UNIT 2188
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/062266 /7487296

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: No new matter added. Corrections do not change scope of claims

SANJIV SHAH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100
SPE

2185
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

MAR 30 2009

OFFICE OF PETITIONS

In re Patent No. 7,470,713	:	
Marinier et al.	:	DECISION DISMISSING
Application No. 11/062,271	:	REQUEST FOR
Issue Date: December 30, 2008	:	RECONSIDERATION OF
Filed: February 2005, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 10188 NP	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.181 & 1.705(d)," filed on January 14, 2009, which is being treated as a petition pursuant to 37 CFR § 1.705(d), requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred and sixty (560) days to eight hundred and seventy-six (876) days.

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

On December 30, 2008, the application matured into U.S. Patent No. 7,470,713, with a revised patent term adjustment of 560 days.

On January 14, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within two months of the issue date of the patent. Patentee argues, citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), that it is entitled to a total patent term adjustment of 876 days, which is the sum of the 316 days of patent term adjustment due to exceeding the three year pendency plus 560 days due to USPTO delay in prosecution, minus 0 days of applicant delay.

It is recognized that the instant patent issued 3 years and 316 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 316 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 560 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, no additional period of adjustment was entered.

It follows that the period of adjustment for Office delay was properly calculated to be 560 days.

In view thereof, the patent issued with a revised patent term adjustment of 560 days.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.702(b), is 316 days. This 316 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 18, 2005, and the patent having not issued until December 30, 2008, three years and 316 days later. Patentees do not agree with the Office's determination that the period of delay of 316 days attributable to the delay in the issuance of the patent

overlaps with the adjustment of 560 days attributable to grounds specified in § 1.702(a)(1). Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay (316 days) and the period of other Examination Delay (560 days) to the extent that these periods of delay are not overlapping. However, patentees maintain that the periods do not overlap and that they are entitled to the 560 day period plus the 316 day period for Office delay.

The period of reduction of 0 days for applicant delay is not in dispute.

As such, patentees assert entitlement to a patent term adjustment of 876 days (316 + 560 reduced by 0).

The Office agrees that the patent issued 3 years and 316 days after its filing date. The Office agrees that the action detailed above was not taken within the specified timeframe, and thus, the entry of a period of adjustment of 560 days for Office delay and 0 days for Applicant delay are correct. At issue is whether the period of delay of 316 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 560 days attributable to grounds specified in § 1.702(a)(1).

The Office maintains that the period of 316 days attributable to the delay in issuance of the patent overlaps with the adjustment of 560 days. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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]

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

---

[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).

Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on February 18, 2008, the date that is 3 years after the actual filing date of the application is incorrect.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 18, 2005 to December 30, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). During that time, the issuance of the patent was delayed by 560 days, not 560 + 316 days. The Office took 14 months and 560 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 560 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 316 days after its filing date. The Office did not delay 560 days and then an additional 316 days. Accordingly, 560 days of patent term adjustment (not 560 and 316 days) was properly entered since the period of delay of 316 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 560 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 560 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 316 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

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 560 days. The patent properly issued with this indication contained thereon, and no further action is required.

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

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[2] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (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

[2] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

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.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that 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.

The implementing regulation, 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;

(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[3]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The 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 under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

---

[3] (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.

> after the date that is 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 and ending on the date a patent was issued, but not including the sum of the following periods[4]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section 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, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

---

[4] (1) 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;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: E. Itzhak Lerner	: DECISION ON REQUEST FOR
Patent Number	: 7579333	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,272	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **529** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

In re Application of :
Ralph S. NORMAN :
Application No. 11/062,278 : DECISION ON PETITION
Filed: February 17, 2005 :
Attorney Docket No. PNORMH :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 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, December 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 27, 2007.

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3683 for appropriate action by the Examiner in the normal course of business on the reply received September 26, 2007.

April Wise
Petitions Examiner
Office of Petitions

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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.
11/062,282	02/18/2005	Qi Naizhen	JP920040002US1	4777

27431 7590 07/30/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER
SONG, HEE K

ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
07/30/2008	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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JUL 29 2008

TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: NAIZHEN et al.
Application No. 11/062,282
Filed: February 18, 2005
For: SETTING APPARATUS, SETTING METHOD, PROGRAM, AND RECORDING MEDIUM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 20, 2008 to make the above- identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in

the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements, and accordingly, the above-identified application has been accorded "special" status.

The request and petition are **GRANTED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Mano Padmanabhan

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW
650 HARRY ROAD
SAN JOSE, CA 95120

Mail Date: 04/20/2010

Applicant	: Qi Naizhen	: DECISION ON REQUEST FOR
Patent Number	: 7617520	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,282	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1031** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA
CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application	:
Tsantrizos, et al.	:
Application No. 11/062,305	: PATENT TERM ADJUSTMENT
Filed: February 18, 2005	:
Dkt. No.: 13-0127	:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed March 20, 2009. This matter is being properly treated under 37 CFR 1.705(b), the application having been filed prior to issuance of a patent. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1,085 days, not 574 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

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

The 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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

[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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BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD, CT 06877-0368

Mail Date: 04/20/2010

Applicant	: Youla S. Tsantrizos	: DECISION ON REQUEST FOR
Patent Number	: 7582770	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,305	: OF WYETH
Filed	: 02/18/2005	:
		:

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

Mail Date: 04/21/2010

Applicant	: Fumio Koyama	: DECISION ON REQUEST FOR
Patent Number	: 7598925	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **934** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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SEP 15 2008

In re Application of	:	
AMBROSE III, John H.	:	
Application No. 11/062,310	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. **01904-22877.NP**	:	FROM RECORD
	:	

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, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHN AMBROSE**
527 WEST 100 NORTH
LAYTON, UT 94041

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

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NOV 10 2008

AMBROSE III, John H. et al.	:	
Application No. 11/062,310	:	DECISION ON PETITION
Filed: February 18, 2005	:	TO WITHDRAW
Attorney Docket No. **01904-22877.NP**	:	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 02, 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 Garron M. Hobson on behalf of all attorneys of record who are associated with customer No. 20551. 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 John Ambrose, III at the address indicated below.

There is an outstanding Office action mailed June 16, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHN AMBROSE, III**
527 WEST 100 NORTH
LAYTON, UT 84041

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TUROCY & WATSON, LLP
127 Public Square
57th Floor, Key Tower
Cleveland, OH 44114

Mail Date: 04/20/2010

Applicant	: Vincent K. Jones IV	: DECISION ON REQUEST FOR
Patent Number	: 7599281	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, DC 20231
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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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SEP 13 2007

Technology Center 2100

In re Application of:
FLURY ET AL.
Application No. **11/062320**
Filed: **02/17/2005**
For: **COLLECTING, AGGREGATING, AND MANAGING INFORMATION RELATING TO ELECTRONIC MESSAGES**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed August 24, 2006 under M.P.E.P. § 708.02(II): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section II which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> Subject to a requirement for a further showing as may be necessitated by the facts of a particular case, an application may be made special because of actual infringement (but not for prospective infringement) upon payment of the fee under 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.
> Models or specimens of the infringing product or that of the application should not be submitted unless requested.

Applicant's submission is deficient in that it does not comply with item (B) above. Applicant fails to provide for 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

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

John Follansbee
WQAS
Technology Center 2100
571-272-3964

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APR 18 2008

TECHNOLOGY CENTER 2100

Craig G. Holmes
HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

In re Application of:
Andrew FLURY, et al.
Application No. 11/062,320
Filed: Feb 17, 2005
For: COLLECTING, AGGREGATING, AND MANAGING INFORMATION RELATING TO ELECTRONIC MESSAGES

DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P. §708.02(II): INFRINGEMENT

This is a decision in response to the communication filed Sep 21, 2007 characterized as a Request for Reconsideration in Petition to Make Special under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

The original petition, submitted on Jul 07, 2005 under 37 C.F.R. § 1.102(d) and M.P.E.P. §708.02(II), was dismissed in the decision mailed on Sep 13, 2007. Applicant contends that the dismissal of the petition, filed July 07, 2005 was error because the alleged deficiency of item (B) had been met in the original petition.

A grantable petition under 37 C.F.R. § 1.102(d), and M.P.E.P. § 708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. § 1.17(h) and a statement under 37 C.F.R. § 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that (A) there is an infringing device or product actually on the market or method in use; (B) a ***rigid comparison*** of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are **unquestionably infringed**: and (C) he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the prior art. Applicant must provide one copy of each of the ***references deemed most closely related*** to the subject matter encompassed by the claims.

Applicant's submissions of Jul 07, 2005 and Sep 21, 2007 met all the criteria set out above. Accordingly, the Petition is **GRANTED**.

The application is being forwarded to the Examiner of Record for expedited examination.

Kim Huynh
Quality Assurance Specialist, Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-4147

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 07/16/2010

Applicant	: Andrew Flury	: DECISION ON REQUEST FOR
Patent Number	: 7653695	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/062,320	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

Mail Date: 04/21/2010

Applicant	: Tamir Ben-David	: DECISION ON REQUEST FOR
Patent Number	: 7634317	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,324	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/062,329	02/18/2005	Chen-Hsiung Cheng	9432-000283/DVC

CONFIRMATION NO.
5795

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

Date Mailed: December 11, 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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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
Peter WOLBRING et al. :
Application No. 11/062,347 : DECISION ON PETITION
Filed: February 18, 2005 :
Attorney Docket No. 4965-000210 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 05, 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, May 02, 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 August 03, 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 May 02, 2007 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 $1,050.00 extension of time fee submitted with the petition on November 05, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to Technology Center AU 3763 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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AUG 3 1 2007

OFFICE OF PETITIONS

Anthony I Provitola
P O Box 2855
DeLand FL 32721-2855

In re Application of Michael McDermott and Anthony Provitola Application No.11/062,351 Filed: February 14, 2005 Title of Invention: Auto-Verifying Voting System and Voting Method	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed January 3, 2007.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor McDermott has refused to join in the filing of the above-identified application after having been presented with the reissue application papers. The petition attest a copy of the reissue application was presented to non-signing inventor. Petitioner has provided evidence of the non-signing inventor's explicit refusal to execute the application papers.

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

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Michael McDermott
P.O. Box 2319
Deland, Florida 32721

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AUG 3 1 2007

OFFICE OF PETITIONS

In re Application of :
Michael McDermott and Anthony Provitola :
Application No.11/062,351 :
Filed: February 14, 2005 : LETTER
Title of Invention: Auto-Verifying Voting System:
and Voting Method :

Dear Mr. McDermott :

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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 Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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TOLEDO, OH 43604

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OFFICE OF PETITIONS

In re Application of	:	
Robert M. Schmidt et al	:	
Application No. 11/062,353	:	DECISION GRANTING
Filed: February 18, 2005	:	PETITION
Attorney Docket No. 75582	:	

This is a decision on the petition filed March 16, 2005, requesting that the above-identified filing date of February 18, 2005, rather than the presently accorded application be accorded a date of February 22, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on February 18, 2005 pursuant to 37 CFR 1.10. The copy of the Express Mail label receipt no. EV487013791US was not filled out and it does not contain a U. S. Postal Service (USPS) date stamp. Nevertheless, petitioner has provided a copy of the results from the USPS Express Mail Track and Confirm database, which shows that the package in question was deposited on February 18, 2005. Applicants are alleging that the date of mailing shown is a USPS error and the correct date of mailing pursuant to 37 CFR 1.10 is February 18, 2005. The same Express Mail number appears on the originally filed application papers.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the results from the USPS Track and Confirm database, it is confirmed that the package bearing Express Mail label No. EV487013791US was accepted on February 18, 2005.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of February 18, 2005.** Thereafter, the application file will be forwarded to Technology Center 2832 for examination in due course.

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

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

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

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of :
Russell, et al. :
Application No. 11/062,374 :
Filed: February 22, 2005 :
Attorney Docket No. 27611/37761A :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 19, 2005, to withdraw the holding of abandonment. The petition was recently forwarded to this office for review.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice) mailed March 17, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 18, 2005. A Notice of Abandonment was mailed on December 7, 2005.

Petitioner asserts that an "Amendment and Response to 'Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures'" and a "Statement Pursuant to 37 CFR 1.125(a) and (b)" were timely submitted on May 16, 2005. In support, petitioner has submitted a copy of the originally filed above-identified documents. The copies of the above-identified documents each contain an executed Certificate of Mailing under 37 CFR 1.8 dated May 16, 2005.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being returned to the Office of Initial Patent Examination for review of the "Amendment and Response to 'Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures'" and "Statement Pursuant to 37 CFR 1.125(a) and (b)", filed December 19, 2005 (original filing date, May 18, 2005; Certificate of Mailing date: May 16, 2005).

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

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

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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

Mail Date: 04/21/2010

Applicant	: Isabelle Marie-Francoise Laye	: DECISION ON REQUEST FOR
Patent Number	: 7611743	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,376	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1052** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Linden NJ 07036

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OFFICE OF PETITIONS

In re Application of
Andrew C. Sutkowski
Application No. 11/062,403
Filed: February 22, 2005
Attorney Docket No. **2004M001**

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

There is no indication that the person signing the instant petition was given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of Jacques B. Miles appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on wholes behalf he acts

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 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 July 11, 2009.

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

The proposed reply required for consideration of a petition to revive must be either a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted on February 15, 2010, does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). A copy of the Advisory Action explaining why the amendment was not accepted is enclosed with this decision.

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
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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 JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

Enclosed: Copy of Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/062,403	Applicant(s) SUTKOWSKI, ANDREW C.	
	Examiner TAIWO OLADAPO	Art Unit 1797	

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

THE REPLY FILED 15 February 2010 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: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

TO

Continuation of 11. does NOT place the application in condition for allowance because: The applicant admits the references of Gutierez and Henry seperately teach components of the claim but asserts there is no motivation to combine the references to obviate the claimed invention. On the contrary, as discussed in the office action dated 04/10/2009, On Page 3 second paragraph, Henry teaches that the antistatic additives are needed in fuels in order to increase conductivity of the fuel and reduce static build-up that can cause fire or an explosion. Thus one of ordinary skill in the art reading Henry would find it obvious to use such as fluid in fuel oil compositions including that of Gutierrez. Therefore, the argument is not persuasive.

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OFFICE OF PETITIONS

In re Application of :
Andrew C. Sutkowski :
Application No. 11/062,403 :
Filed: February 22, 2005 :
Attorney Docket No. **2004M001** :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2010, to revive the above-identified application.

The petition is **GRANTED**.

There is no indication that the person signing the instant petition was given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34, the signature of Jacques B. Miles appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on wholes behalf he acts

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 10, 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 July 11, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1797 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

JoAnne Burke
Petitions Examiner
Office of Petitions

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FEB 20 2007

OFFICE OF PETITIONS

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

In re Application of :
Jurgen Lutz, et al. :
Application No. 11/062,425 : ON PETITION
Filed: February 22, 2005 :
Attorney Docket No. 095309.56857D1 :

This is a decision in response to the petition, filed August 11, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 5, 2005, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. On July 12, 2006, a Notice of Abandonment was mailed. In response, on August 11, 2006 the present petition was filed.

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

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

The application is being referred to Technology Center AU 3616 for consideration of the response filed August 11, 2006.

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

LITMAN LAW OFFICES, LTD.
POST OFFICE BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215-0035

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JAN 21 2009

In re Application of	:	
Wardak Mohd Ismail	:	
Application No. 11/062,430	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 25768.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed January 9, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on April 10, 2008. A Notice of Abandonment was mailed August 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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.

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

The file is now being forwarded to Technology Center 3733 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

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MAY 04 2007

OFFICE OF PETITIONS

In re Application of	:	
Atsushi Tabata et al	:	
Application No. 11/062,494	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 11835/17	:	

This is a decision on the petition, filed October 6, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice to File Missing Parts (Notice) mailed April 29, 2005, which set a two (2) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 26, 2006.

Petitioner asserts that the Applicants did timely file a proper reply to the Notice to File Missing Parts mailed April 29, 2005. However, Office record show that the petitioner did not respond to the Notice of Incomplete Reply (Nonprovisional) mailed July 11, 2005. The period of reply remains as set forth in the Notice to File Missing Parts (Notice) mailed April 29, 2005. A courtesy copy of the Notice of Incomplete Reply accompanies this decision.

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

1. a statement from practitioner stating that the Notice of Incomplete Reply was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice of Incomplete Reply was not received; and

3. a copy of the docket record where the nonreceived Notice of Incomplete Reply would have been entered had it been received 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 fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of Incomplete Reply, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1500 petition fee.

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

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

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

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

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

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

Irvin Dingle
Petition Examiner
Office of Petitions

Attachment: A courtesy copy of the Notice of Incomplete Reply (Nonprovisional) Mailed July 11, 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 NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/062,494	02/23/2005	Atsushi Tabata	11835/17

CONFIRMATION NO. 8773

FORMALITIES LETTER

OC000000016492986

23838
KENYON & KENYON
1500 K STREET NW
SUITE 700
WASHINGTON, DC 20005

Date Mailed: 07/11/2005

NOTICE OF INCOMPLETE REPLY (NONPROVISIONAL)

Filing Date Granted

The U.S. Patent and Trademark Office has received your reply on 06/23/2005 to the Notice to File Missing Parts (Notice) mailed 04/29/2005 and it has been entered into the nonprovisional application.The reply, however, does not include the following items required in the Notice.

The period of reply remains as set forth in the Notice. You may, however, obtain EXTENSIONS OF TIME under the provisions of 37 CFR 1.136 (a) accompanied by the appropriate fee (37 CFR 1.17(a)).

A complete reply must be timely filed to prevent ABANDONMENT of the above-identified application. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The application was filed in a language other than English. Applicant is required to provide an English translation of the specification and a statement that the translation is accurate. (See 37 CFR 1.52(d)).
- Because your specification was filed in a language other than English, the Office was unable to determine the number of claims submitted. Additional claim fees may be due once the number of claims can be determined.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) are required. The drawings submitted are not acceptable because:
    - The drawing figures contain text that is not in English (including, for example, a flow chart that was originally not in English that has been marked up to include the English text) (see 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1)). See Figure(s) 1-15.

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Office of Initial Patent Examination (703) 308-1202

PART 3 - OFFICE COPY

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United States Patent and Trademark Office
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In re Application of	:	
Atsushi Tabata et al	:	
Application No. 11/062,494	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 11835/17	:	

This is a decision on the renewed petition, filed May 25, 2007 under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Missing Parts mailed April 29, 2005. A Notice of Abandonment was mailed on September 26, 2006.

The Office record show a timely reply was received on June 29, 2005.

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

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

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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W. ERIC BOYD, ESQ.
IRVINE SENSORS CORPORATION
3001 REDHILL AVENUE, BUILDING 3
SUITE 108
COSTA MESA CA 92626

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FEB 22 2006

OFFICE OF PETITIONS

In re Application of
Gann et al
Application No. 11/062,507
Filed: February 22, 2005
Attorney Docket No. ISC-134
Title of Invention: Bga-scale Stacks Comprised of Layers Containing Integrated Circuit Die and a Method for Making the Same

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed January 16, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on March 25, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 25, 2005. A Notice of Abandonment was mailed on December 7, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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FOLEY & LARDNER LLP
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MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Patent No. 7,511,369
Issued: March 31, 2009
Application No. 11/062,507
Filed: February 22, 2005
Attorney Docket No. 088245-9311

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed May 29, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred sixty-two (362) days to seven hundred sixty-five (765) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth V. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abyance.

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

On March 31, 2009, the above-identified application matured into US Patent No. 7,511,369 with a patent term adjustment of 362 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to an additional 403 days of patent term adjustment for the Office taking in excess of three years to issue the patent.

The 403-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 22, 2005, and the patent having been issued on March 31, 2009, three years and 403 days later. Patentees assert that in addition to this 403 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 493 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 131 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (403 days) and the period of Examination Delay (493 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 896 days, which includes the period of Three Year Delay (403 days) and the period of Examination Delay (493 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 765 days (403 + 493 reduced by 0 overlap – 131 (applicant delay)).

The Office agrees that as of the issuance of the patent on March 31, 2009, the application was pending three years and 403 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 493 days is correct. At issue is whether patentees should accrue 403 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 493 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 403 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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

date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 22, 2005, to the date the patent issued on March 31, 2009. Prior to the issuance of the patent, 493 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 403 days for Office delay in issuing the patent overlap with the 493 days of Office delay. During that time, the issuance of the patent was delayed by 493 days, not 493 + 403 days. The Office took 14 months and 493 days to issue a first office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames.

---

[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).

Nonetheless, given the 493 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 403 days. The Office did not delay 493 days and then an additional 403 days. Accordingly, 493 days of patent term adjustment was properly entered since the period of delay of 403 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 493 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 493 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 403 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of Patent Term Adjustment at the time of the issuance of the Patent is 362 days.

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

Christina Y. Donnell for

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY & LARDNER LLP
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P.O. BOX 1497
MADISON WI 53701-1497

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MAR 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,511,369
Issued: March 31, 2009
Application No. 11/062,507
Filed: February 22, 2005
Attorney Docket No. 088245-9311

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on September 21, 2009, requesting that the patent term adjustment be corrected from 362 to 765 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by seven hundred sixty -five (765) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred sixty-five (765)** 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 Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,511,369 B2

DATED : March 31, 2009

INVENTOR(S) : Gann Keith

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 (362) days

Delete the phrase "by 362 days" and insert – by 765 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN OH 43017

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Farid Bruce Khalili	:	
Application No. 11/062512	:	
Filing or 371(c) Date: 02/22/2005	:	ON PETITION
Attorney Docket Number: Ve 029	:	

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed July 25, 2007. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 20, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on January 21, 2007. A Notice of Abandonment was mailed June 5, 2007.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The application is being referred to Technology Center Art Unit 3733 for processing of the Amendment filed with the petition in due course.

It is noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available.

Applicant may request a refund of the extension of time fee by writing to the Office of Finance, Refund Section. A copy of this Decision should be included with the request.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD, CT 06877-0368

Mail Date: 04/20/2010

Applicant	: Frank Himmelsbach	: DECISION ON REQUEST FOR
Patent Number	: 7645763	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1041** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/23/2010

Applicant	: Fujio Noguchi	: DECISION ON REQUEST FOR
Patent Number	: 7619659	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,523	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/17/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 & Lardner
777 East Wisconsin Avenue
Suite 3800
Milwaukee, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:	
Siegrist et al.	:	DECISION ON PETITION
Application No. 11/062,535	:	
Filed: February 22, 2005	:	
Attorney Docket No. 026032-4872	:	

This is a decision on the petition filed April 5, 2005, requesting that the above-identified application be accorded a filing date of February 22, 2005, with Figure 5 as part of the original disclosure.

On February 22, 2005, applicants filed the above-identified application. However, on March 21, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of February 22, 2005, and advising applicants that Figure 5 described in the specification appeared to have been omitted.

In response, April 5, 2005, applicants filed the present petition, a drawing of Figure 5, and the petition fee. In the present petition, applicants admit that Figure 5 was inadvertently omitted during the filing of the original application papers. Applicants request that the application be accorded a filing date of February 22, 2005, with Figure 5 as part of the original disclosure. Applicants state that Figure 5 is referred to in the Brief Description of the Drawings at paragraph [0023] and discussed in paragraph [0033] in the specification. Applicants assert that Figure 5 does not contain new matter because it depicts that which was described in the cited paragraphs as originally filed.

As applicants admit, Figure 5 was not present on February 22, 2005, the date the application was filed. For this reason, the application cannot be accorded the filing date of February 22, 2005, with the drawing of Figure 5 as a part of the original disclosure.

Accordingly, the petition is dismissed.

Figure 5, submitted with the present petition on April 5, 2005, will not be entered at this time. However, applicants' may file a preliminary amendment with the primary examiner requesting entry of Figure 5.

This matter is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of February 22, 2005, using **only** the drawing sheets filed on that date. Figure 5 will **not** be entered at this time.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUN - 6 2005

KENNETH W. FLANIGAN
12385 6th Street, 521
Yucaipa, CA 92399

In re application of Kenneth W. Flanigan Application No. 11/062,536 Filed: February 22, 2005	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

For: GAS-POWERED TIP-JET-DRIVEN TILT-ROTOR COMPOUND VTOL AIRCRAFT

This is a decision on the petition submitted on February 22, 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. Flanigan indicating that he is at least 65 years of age.

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

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

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

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/js 5/25/05

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

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JUN 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Noel J.F. Kesterman	:	DECISION ON PETITION
Application No. 11/062,569	:	TO WITHDRAW
Filed: February 23, 2005	:	FROM RECORD
Attorney Docket No. 360302001000	:	

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 27, 2009.

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

A review of the file record indicates that on June 16, 2006 the power of attorney to Morrision & Foerster LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Sprint Nextel Corporation
6391 Spring Parkway
Mailstop: KSOPHT0101-Z2100
Overland Park KS 66251

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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Makoto Morishima	: DECISION ON REQUEST FOR
Patent Number	: 7572302	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,598	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of	:
Masataka Hoshino et al	:
Application No. 11/062,663	: DECISION GRANTING PETITION
Filed: February 23, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 108077-00004	:

This is a decision on the petition, filed December 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 13, 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 2874 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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North Star Intellectual Property Law, PC
P.O. Box 34688
Washington, DC 20043

Mail Date: 05/24/2010

Applicant	: Sung-hee Hwang	: DECISION ON REQUEST FOR
Patent Number	: 7663990	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/062,669	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1369** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/062,673	02/22/2005	Timothy L. Tartamella	P02063US2A	8152

7590 02/11/2008

John M. Vasuta
BRIDGESTONE AMERICAS HOLDING, INC.
1200 Firestone Parkway
Akron, OH 44317

EXAMINER
TESKIN, FRED M

ART UNIT	PAPER NUMBER
1713	

MAIL DATE	DELIVERY MODE
02/11/2008	PAPER

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

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

UNITED STATES PATENT and TRADEMARK OFFICE

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Mailed: 2-11-08

DWW

In re Application of Tartamella et al.
Serial No.: 11/062,673
Filed: February 22, 2005

DECISION ON PETITION UNDER *37 CFR 1.48(a)*

Title: BULK POLYMERIZATION PROCESS

This is a decision on the PETITION TO CORRECT INVENTORSHIP IN A NON-PROVISIONAL PATENT APPLICATION filed June 8, 2007 to correct inventorship under 37 CFR 1.48(a) by adding the name of Mark Smale to the list of inventors of the instant application.

It is noted that the applicant has met the requirements of 37 C.F.R. § 1.48(a) by (1) submitting a request to correct the inventorship that sets forth the desired inventorship change; (2) providing a statement from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part; (3) providing a declaration of the actual inventors as required by 37 C.F.R. § 1.63; and (4) providing the processing fee set forth in 1.17(i). It is also noted that since no assignment has been executed by the originally named inventors, written assent of assignee is not needed.

The request is **GRANTED**.

The application file is being forwarded to the appropriate section of the Patent and Trademark Office for correction of the record.

David Wu
Supervisory Patent Examiner
Art Unit 1796
Technology Center 1700

John M. Vasuta
BRIDGESTONE AMERICAS HOLDING, INC.
1200 Firestone Parkway
Akron OH 44317

UNITED STATES PATENT AND TRADEMARK OFFICE

EV549910615

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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DW 11-02

Paper No. 11

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

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of Dideriksen, Feller, Harris, Novak, and Olson Application No. 09/817,901 Filed: 26 March, 2001 Attorney Docket No. MS1-788US	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the twice renewed petition filed under 37 CFR 1.47(a) on 6 November, 2002.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Chris Feller, has refused to join in the filing of the above-identified application after having been sent via E-mail a copy of the application papers. Specifically, the statement of petitioners' registered attorney, Lance R. Sadler, establishes that the a copy of the application papers were sent via E-mail to the inventor, who acknowledged receipt thereof. The inventor then sent an E-mail to counsel's employee, Jane Stafford, stating that he would not sign the application. The inventor has not signed and returned 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 inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

Although petitioners submitted a two (2) month extension of time with the present renewed petition, a three (3) month extension of time is necessary for a timely reply to the decision mailed 6 June, 2002. Therefore, counsel's deposit account, No. 12-0769, will be charged the additional $520.00 for a three (3) month extension of time.

It is noted that the declaration filed with the present petition lists a different order of inventors' names than did the declaration filed on 29 November, 2001. The order of names of joint patentees in the heading of the patent is taken from the order in which the typewritten names appear in the original oath or declaration.[1] Therefore, if petitioners desire that the order of names be other than as specified on the declaration filed with the application, a petition under 37 CFR 1.182 to change the order of inventors must be filed, accompanied by the requisite petition fee.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1]MPEP 605.04(f).

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WASHINGTON, D.C. 20231
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DW 11-02

Chris Feller
15600 NE 8th Street
Suite B1-537
Bellvue, WA 98008

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NOV 1 4 2002

OFFICE OF PETITIONS

In re Application of
Feller et al.
Application No. 09/817,901
Filed: 26 March, 2001
For: METHODS, SYSTEMS AND MEDIA PLAYERS FOR RENDERING DIFFERENT MEDIA TYPES

Dear Mr. Feller:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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

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WASHINGTON, D.C. 20231
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DIW 11-02

Chris Feller
15600 NE 8th Street
Suite B1-537
Bellvue, WA 98008

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NOV 14 2002

OFFICE OF PETITIONS

In re Application of
Feller et al.
Application No. 09/817,901
Filed: 26 March, 2001
For: METHODS, SYSTEMS AND MEDIA PLAYERS FOR RENDERING DIFFERENT MEDIA TYPES

Dear Mr. Feller:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JOHN S. BEULICK (12729)
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: John Douglas Mickol	: DECISION ON REQUEST FOR
Patent Number	: 7572101	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,681	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **850** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Washington University
660 S Euclid Avenue
Campus Box 8013
St. Louis, MO 63110

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In re Application of	:	
Vladimir Birman	:	
Application No. 11/062,683	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. CS0258-02/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 27, 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 John H. Lamming and all attorneys/agents of record has been revoked by the assignee of the patent application on September 14, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: WASHINGTON UNIVERSITY-SNR
C/O SONNENSCHEIN NATH & ROSENTHAL L.L.P
P.O. BOX 061080
WACKER DRIVE STATION , SEARS TOWER
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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STRIKER, STRIKER & STENBY
103 EAST NECK ROAD
HUNTINGTON, NY 11743

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OFFICE OF PETITIONS

In re Application of	:
Lutz Parthier et al	:
Application No. 11/062,711	: DECISION GRANTING PETITION
Filed: February 22, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3240	:

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 27, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1722 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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KATHLEEN R. TERRY
1666 Coffman Street, SUITE 314
FALCON HEIGHTS, MN 55108

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OFFICE OF PETITIONS

In re Application of

George K. ZOOROB
Application No. 11/062,715
Filed: February 22, 2005
Attorney Docket No. **NM.001US1**

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 6, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request 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 the undersigned at 571-272-7253.

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

cc: **GEORGE K. ZOOROB**
1720 GARDINER ROCK LANE
COLORADO SPRINGS, CO 80906

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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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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OFFICE OF PETITIONS

In re Application of :
Allen Bradley Kramer :
Application No. 11/062724 : DECISION
Filing or 371(c) Date: 02/22/2005 : ON PETITION
Attorney Docket Number: TI-38610 :

This is a decision on the renewed Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed June 3, 2008. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned September 4, 2008. A Notice of Abandonment was mailed September 30, 2008.

Applicant files the present petition and the issue due. The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and the publication fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

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

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,337,716 B2
Serial No. : 11/062,750
Inventor(s) : Scheel
Issued : March 4, 2008
Title : **FRUIT PRESS**
Docket No. : **A-9470.RNFMP/CAT**
Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of

Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

Hoffman, Wasson & Gitler, P.C.
Crystal Center 2
Suite 522
2461 South Clark Street

ecw

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Commissioner for Patents
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Alexandria, VA 22313-1450
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Patent No. : 7,1337,716 B2
Serial No. : 11/062,750
Inventor(s) : Scheel
Issued : March 4, 2008
Title : **FRUIT PRESS**
Docket No. : **A-9470.RNFMP/CAT**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
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2461 South Clark Street
Arlington VA 22202

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Crystal Center 2
Suite 522
2461 South Clark Street
Arlington VA 22202

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In re Patent No. 7,337,716
Issue Date: March 4, 2008
Application No. 11/062,750
Filed: February 23, 2005

DECISION ON PETITION

This is a decision on the Response to Request for Reconsideration andCertificate of Correction Under 37CFR 1.323, filed by facsimile on June 30, 2009, requesting correction on the Title Page of the subject patent to identify the correct assignee. The Response is being treated as a Petition. A completed Certificate of Correction Form (PTO-1050) was previously submitted.

The petition under 37 CFR 3.81 is **DISMISSED**.

Petitioner urges that the present Petition was submitted to correct the two minor typographical errors identified in assignee's name on the previously submitted PTOL-85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from "Gebr. Graef GmbH & Co., LG (Arnsburg, DE)" to --Gebr. Graef GmbH & Co., KG (Arnsberg, DE)--

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

U.S. Patent and Trademark Office assignments records disclose that an assignment to Gebr. Graef GmbH & Co., KG Arnsberg (DE) was recorded on April 28, 2008. Therefore, the recorded assignment was March 4, 2008. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certification of correction would not be proper.

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Paper No.

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

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MAR 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,417,085	:	
Kimura et al.	:	DECISION DISMISSING
Application No. 11/062,770	:	REQUEST FOR
Issue Date: August 26, 2008	:	RECONSIDERATION OF
Filed: February 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: 023174-0125	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed on October 23, 2008, which is being treated as a petition pursuant to 37 CFR § 1.705(d), requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred and twenty-five (225) days to four hundred and eleven (411) days.

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

On August 26, 2008, the application matured into U.S. Patent No. 7,417,085, with a revised patent term adjustment of 225 days. On October 23, 2008, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee) within two months of the issue date of the patent. Patentee argues, citing Wyeth v. Dudas, Civ. Action No. 07-1492 (JR), that it is entitled to a total patent term adjustment of 411 days, which is the sum of the 186 days of patent term adjustment due to exceeding the three year pendency plus 347 days due to

USPTO delay in prosecution, minus the 122 days of applicant delay.

Patentees' arguments have been considered, but not found persuasive. It is noted that the instant patent issued 3 years and 186 days after its filing date. However, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap, with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). See also Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule, 69 Fed. Reg. 21704 (April 22, 2004). In this instance, the period of delay of 186 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 347 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, no additional period of adjustment was entered.

It follows that the proper period of adjustment for Office delay was properly calculated to be 347 days.

In view thereof, the patent issued with a revised patent term adjustment of 225 (347 - 122) days.

Patentees also calculate a 186 day period based on the application having been filed under 35 U.S.C. 111(a) on February 22, 2005, and the patent having not issued until August 26, 2008, three years and 186 days later; and a 347 day period based on the Office taking more than fourteen months and 347 days to issue a first Office action. (No request for continued examination was filed in the application). Patentees do not agree with the Office's determination that the period of delay of 186 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 347 days attributable to grounds specified in § 1.702(a)(1). Patentees maintain that these periods only overlap if the actual calendar days of these periods overlap. In effect, pursuant to Wyeth, patentees argue that the Three Year delay runs from February 23, 2008 to August

26, 2008, whereas the examination delay runs from April 23, 2006 to April 4, 2007, and as none of the calendar days in these periods are the same, there is no overlap. Therefore, patentees contend considering no calendar day overlap, the period of adjustment for Office delay is 533 (347 + 186) days, not 347 days.[1] Patentees argue entitlement to a period of adjustment for both the Office delay in issuing a first Office action and for the Office delay in taking in excess of three years to issue the patent. As the period of reduction of 122 days for applicant delay is not in dispute, patentees maintain that the revised patent term adjustment is the sum of the period of Three Years Delay (186 days) and the period of Examination Delay (347 days) less the period of Applicant Delay (122 days).

As such, patentees assert entitlement to a patent term adjustment of 411 days (186 + 347 reduced by 122).

It is undisputed that the patent issued 3 years and 186 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified timeframes, and thus, the entries of periods of adjustment of 347 days for Office delay and 122 days for Applicant delay are correct. At issue is whether the period of delay of 186 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 347 days attributable to grounds specified in § 1.702(a)(1).

The Office maintains that the period of 186 days attributable to delay in the issuance of the patent overlaps with the 347 days attributable to grounds specified in § 1.702(a)(1). Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

---

[1] See petition, pages 2, 4.

> 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[2]

[2] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-

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. It is incorrect to treat the relevant period as starting on February 22, 2008, the date that is 3 years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, February 22, 2005 to August 26, 2008. During that time, the issuance of the patent was delayed by 347 days, not 347 + 186 days. The Office took 14 months and 347 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702 within the prescribed timeframes. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Nonetheless, given the initial 347 days of Office delay and the 122 days of applicant delay and the time allowed for processing and examination, the patent issued, three years and 186 days after its filing date. In view thereof, 347 days of patent term adjustment not 347 and 186 days was properly entered since the period of delay of 186 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 347 days attributable to grounds specified in § 1.702(a)(1). 347 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 186 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment specifically for the Office taking in excess of 3 years to issue the patent.

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 225 days. The patent properly issued with this indication contained thereon, and no further action is required.

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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).

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[3] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (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

[3] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

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.

(2) LIMITATIONS. —

(A) IN GENERAL. — To the extent that 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.

The implementing regulation, **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;

(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[4]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The 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 under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is 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 under 35 U.S.C. 111(a) or the

---

[4] (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.

national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[5]:

37 CFR 1.703(f) provides that:

The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). 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. The term of a patent entitled to adjustment under § 1.702 and this section 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, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

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[5] (1) 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;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

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OCT 11 2007

OFFICE OF PETITIONS

In re Application of :
Chin-Sun Chen :
Application No. 11/062,810 : DECISION ON PETITION
Filed: February 23, 2005 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket No.: MR3287-22 :
Title: SCREW WITH GUIDE WINGS :

This is a decision on the petition filed July 18, 2007, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed October 24, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 25, 2007. A notice of abandonment was mailed on July 16, 2007.

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

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

With the present petition, Petitioner has included both the petition fee and the proper statement of unintentional delay. The concurrently submitted amendment shall serve as the required reply. A terminal disclaimer is not required.

The petition is **GRANTED**.

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

The general phone number for OIPE is 571-272-4000. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WASHINGTON DC 20005-3096

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FEB 24 2006

OFFICE OF PETITIONS

In re Application of	:	
Tetsuji Nakakuma et al	:	
Application No. 11/062,826	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 71971-125	:	

This is a decision on the petition, filed February 23, 2006, and supplemented on February 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The examiner of Technology Center AU 2827 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. _____

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FEB 24 2006
OFFICE OF PETITIONS

Date : February 24, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Tetsuji Nakakuma et al
Application No. :11/062,826
Filed :February 23, 2005

The above-identified application has been assigned Patent No. 7,006,399 and an issue date of February 28, 2006.

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

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of February 28, 2006:

"All reference to Patent No. 7,006,399 to Tetsuji Nakakuma et al of Japan for SEMICONDUCTOR DEVICE COMPRISING A DIFFERENTIAL SENSE AMPLIFIER, A WRITE COLUMN SELECTION SWITCH AND A READ COLUMN SELECTION SWITCH appearing in the Official Gazette of February 28, 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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WASHINGTON DC 20005-3096

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JUN 19 2006

OFFICE OF PETITIONS

In re Application of :
Tetsuji Nakakuma et al :
Application No. 11/062,826 :
Filed: February 23, 2005 :
Attorney Docket No. 71971-125 :

ON PETITION

This is a decision on the petition, filed June 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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MAIL

MAY 29 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112-3801

In re Application of	:	
HIROYUKI NOGUCHI ET AL	:	DECISION ON REQUEST TO
Application No. 11/062844	:	PARTICIPATE IN PATENT
Filed: February 23, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 00862.521393	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed May 11, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090316

DATE :

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7,408,685

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:

All changes on the Certificate of correction filed on 11/20/2008 and 01/06/2009 are approved.

/Houshang Safaipour/
Primary Examiner
Art Unit 2625

Staple Here Only!

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : US 7,408,685 B2

DATED : August 5, 2008

INVENTOR(S) : HIROYUKI NOGUCHI ET AL.

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

COLUMN 2:

Line 14, "problem" should read --a problem--;
Line 50, "result" should read --the result--;
Line 53, "result" should read --the result--;
Line 62, "advantageous" should read --advantages--; and
Line 66, "from" should read --form--.

COLUMN 3:

Line 63, "executed" should read --execute--; and
Line 65, "work" should read --a work--.

COLUMN 13:

Line 13, "storing for" should read --storing a program for--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. US 7,408,685 B2

No. of add'l. copies @ 30¢ per page

Form PTO 1050 (Rev. 3-82)

FCHS_WS 2634798v1

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GE HEALTHCARE, INC.
IP DEPARTMENT
101 CARNEGIE CENTER
PRINCETON NJ 08540-6231

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Ardenkjaer-Larsen et al.	:	
Application No. 11/062,882	:	LETTER DISMISSING PETITION
Filed: 22 February, 2005	:	
Atty Docket No. PN0183 CON	:	

This is a decision in reference to the papers filed on 16 February, 2006, entitled "Petition to Delete Priority Claim" and "Verified Statement in Support of a Petition Under 37 CFR 1.47(a)".

The petition is DISMISSED as inappropriate.

The filing of a petition is inappropriate to delete a benefit claim. In this regard, petitioner's attention is directed to MPEP § 201.11(G), under the subheading Deleting Benefit Claims, which states:

> The examiner should consider whether any new prior art may now be available if a benefit claim is deleted. If an applicant is submitting an amendment to the specification or an ADS to delete a benefit claim after final rejection or action, the amendment or ADS will be treated under 37 CFR 1.116 (see MPEP § 714.12 and § 714.13). If the amendment or ADS to delete a benefit claim is submitted after the application has been allowed, the amendment or ADS will be treated under 37 CFR 1.312 (see § MPEP 714.16).

Accordingly, the petition to delete a benefit claim is dismissed as inappropriate. Applicants may wish to consider filing an amendment as described above.

Additionally, with regard to the statement in support of a petition under 37 CFR 1.47(a), it is noted that the inventors whose signatures were required by the Notice mailed on 29 April, 2005, appear to have signed the copy of the declaration filed on 23 June, 2005. As such, it does not appear that a Rule 47(a) petition is required.

As the present petition was not necessitated by an error on the part of the USPTO, the petition fee will not be refunded.

Any inquiries concerning this decision may be directed to the undersigned 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 matter is being referred to Technology Center AU 2859 for further processing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/16/09

TO SPE OF : ART UNIT 3739

SUBJECT : Request for Certificate of Correction for Appl. No 11/062,924 No.: 7,387,631

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)

Should the change Be made?

RoChaun Johnson
Certificates of Correction Branch
571 272-0470

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: _____

All approved.

/Linda C.M. Dvorak/ 3739
SPE **Art Unit**

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

Mail Date: 04/20/2010

Applicant	: Takashi Horikawa	: DECISION ON REQUEST FOR
Patent Number	: 7594146	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,930	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1248** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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AUG 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Hiroyasu Kidokoro et al	:	
Application No. 11/062,937	:	DECISION GRANTING PETITION
Filed: February 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4041J-000968	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 1, 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 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 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Moon-Hee Park	: DECISION ON REQUEST FOR
Patent Number	: 7626330	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/062,938	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **814** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Mark G. Bocchetti
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

COPY MAILED

AUG 23 2007

OFFICE OF PETITIONS

In re Application of:	:	
BLANDING, Douglas, L.	:	DECISION ON PETITION UNDER
Application No.: 11/062,971	:	37 CFR 1.137(b)
Filed: February 22, 2005	:	
Atty's Docket No.: 89324NAB	:	

This is a decision on the petition for revival of the above-entitled application under 37 CFR 1.137(b), filed July 30, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice Of Allowance mailed April 20, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned at midnight on July 20, 2007.

On July 30, 2007, applicants filed the petition for revival under 37 CFR 1.137(b) considered herein. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes: (1) the petition fee; (2) the required statement of unintentional delay;[1] and (3) the required reply in the form of payment of the issue and publication fees. Accordingly, the issue and publication fee payment is accepted as having been unintentionally delayed.

The application is being referred to the Office Of Publications. Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3296.

Richard M. Ross
Attorney Advisor

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[1] The statement that "This application became unintentionally abandoned on July 23, 2007 for failure to pay the issue fee. The delay in payment of the issue fee was unintentional" is construed as the statement required under 37 CFR 1.137(b)(3), that is, a statement that "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." If this is not a correct interpretation of this statement, applicant **must** inform this Office immediately.

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HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

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MAR 09 2010

In re Patent No. 7,576,088	:
Alanine et al.	: DECISION ON REQUEST FOR
Issue Date: August 18, 2009	: RECONSIDERATION OF
Application No. 11/062,973	: PATENT TERM ADJUSTMENT
Filed: February 22, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 21237 US1	: TO ISSUE CERTIFICATE OF
Title: BENZODIOXOLE DERIVATIVES	: CORRECTION
	:

This is a decision on the petition filed on October 16, 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 sixty-nine (1069) 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 sixty-nine (1069) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand sixty-nine (1069) 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 Petitions Attorney, Charlema Grant at (571) 272-3215.

/Kery 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 : 7,576,088 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Alanine 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 526 days

Delete the phrase "by 526 days" and insert – by 1069 days--

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CRAIG W. RODDY
HALLIBURTON ENERGY SERVICES
P.O. BOX 1431
DUNCAN, OK 73536-0440

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FEB 10 2006

OFFICE OF PETITIONS

In re Application of :
Michael J. Szymanski, et al. :
Application No. 11/062,977 :
Filed: February 22, 2005 :
Attorney Docket No. HES 2004-IP-014770U1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313, filed February 2, 2006, requesting that the above-identified application be withdrawn from issue.

The petition is DISMISSED AS MOOT.

A review of the record discloses that a Notice of Allowance and Issue Fee Due was mailed on January 17, 2006. Since the Request for Continued Examination (RCE) under 37 CFR 1.114 was filed within the period set for paying the issue fee, a petition to withdraw the application from issue under 37 CFR 1.313 is not necessary.

The application is being referred to Technology Center AU 1763 for processing the RCE filed February 2, 2006.

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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CANADY & LORTZ
2540 HUNTINGTON DRIVE
SUITE 205
SAN MARINO CA 91108

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FEB 2 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Nolan et al.	:	
Application No. 11/062,996	:	DECISION GRANTING PETITION
Filed: February 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03-1357/BOECP001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 26, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 21, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2821 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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JUL 25 2007

OFFICE OF PETITIONS

ROBERT A. KENT
2600 S. 2ND STREET
DUNCAN OK 73536-0440

In re Application of	:	
Michael J.R. Segura	:	
Application No. 11/063,003	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 2003-IP-012145U1	:	

This is a decision on the petition, filed July 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 16, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The instant petition under 37 CFR 1.313(c)(2), the RCE/amendment and the IDS, filed on July 23, 2007, are not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature ofElizabeth Durham appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she act. However, if Ms. Durham desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Ms. Durham, the petitioner herein. Until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

The application is being referred to Technology Center Art Unit 3676 for processing of the request for continued examination under 37 CFR 1.114 filed July 23, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
ELIZABETH L. DURHAM
BAKER BOTTS
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON, TX 77002

UNITED STATES PATENT AND TRADEMARK OFFICE

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Dykema Gossett PLLC
Suite 300
39577 Woodard Avenue
Bloomfield Hills, MI 48304-2820

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AUG 14 2006
OFFICE OF PETITIONS

In re Application of	:	
Gangming Luo et al.	:	
Application No. 11/063,012	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 64,835-035	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 10, 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 on of the applicants, Robert S. Siffert attesting that is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to 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 3768 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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25TH FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Dost, et al. :
Application No. 11/063,015 :
Filed: February 22, 2005 :
Attorney Docket No. 0212.71892 :
For: TOOL ACCESSORY CASE INDEX

This is a decision on the petition filed January 8, 2008, entitled, "PETITION UNDER 37 CFR 1.47(A) PURSUANT TO AN INVENTOR THAT CANNOT BE REACHED." The petition will be treated as a petition under CFR 1.183, requesting waiver of 37 CFR 1.63 and 1.67, which requires all of the joint inventors to execute a supplemental declaration.[1]

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **DISMISSED AS MOOT**.

It is noted that the non-final Office action, mailed July 3, 2007, stated that the oath/declaration filed on February 22, 2005 was defective because it did not state that the person making the oath/declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined by 37 CFR 1.56.

Since the Office action was mailed and the instant petition was filed, Director Dudas signed "Duty of Disclosure Language Set Forth in Oaths or Declarations Filed in Nonprovisional Patent Applications"(signed 22 January 2008).

It states in pertinent part:

For pending applications, the Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to June 1, 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)"

[1] 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 or unavailability to sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56.

While not required, patentees and applicants are free to submit newly executed oaths or declarations with the language expressly set forth in current 37 CFR 1.63(b)(3), in accordance with 37 CFR 1.67.

Accordingly, the February 22, 2005 declaration is acceptable, the requirement for a supplemental declaration found in the July 3, 2007 non-final Office action is withdrawn, and the present petition is dismissed as moot.

No petition fee has been charged in connection with this matter.

After the mailing of this decision, the application will be returned to Technology Center A.U. 3728 for consideration of the amendment filed on January 8, 2008 (certificate of mailing date January 3, 2008).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 04/20/2010

Applicant	: Ian Revie	: DECISION ON REQUEST FOR
Patent Number	: 7585302	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **767** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

KACVINSKY LLC
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

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SEP 29 2008

In re Application of Stefano Montironi Franciarini et al. Application No. 11/063,020 Filed: February 22, 2005 Attorney Docket No. 1020.P21114 Title: CONTROL GATE PROFILE FOR FLASH TECHNOLOGY	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the petition filed August 22, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

A supplement to this petition was filed on August 25, 2008. However this supplement has not been entered, due to the fact that it has not been executed. See 37 C.F.R. § 10.18(a).

This petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 15, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting

issue or publication fees.[1] Accordingly, the above-identified application became abandoned on August 16, 2007. A Notice of Abandonment was mailed on September 13, 2007.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has included the petition, issue, and publication fees, along with a statement that is being construed as the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

---

1 See MPEP § 710.02(e).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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 further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANNY R. LEE
STE 324
1358 HOOPER AVE.
TOMS RIVER, NJ 08753-2882

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of :
Lanny R. Lee :
Application No. 11/063,041 :
Filed: February 22, 2005 :
For: INTERLOCKING CONSTRUCTION PANEL SHOWING FABRICATION THEREOF AND THE BUILDING SYSTEM :

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 22, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The petition includes copies of a driver's license and passport. Accordingly, the above-identified application has been accorded "special" status.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 3635 for action on the merits commensurate with this decision.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: LANNY R. LEE
1353 HOOPER AVE
TOMS RIVER, NJ 08753

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANNY R. LEE
STE. 324
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TOMS RIVER NJ 08753-2882

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OFFICE OF PETITIONS

In re Application of :
Lanny R. Lee :
Application No. 11/063,041 :
Filed: February 22, 2005 :
For: INTERLOCKING CONSTRUCTION PANEL SHOWING FABRICATION THEREOF AND THE BUILDING SYSTEM :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely reply to the Nonfinal Rejection mailed March 28, 2006.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1) and (3).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

Applicant submitted the form PTO/SB/64a, for a petition to revive under 37 CFR 1.137(f) instead of form PTO/SB/64 under 37 CFR 1.137(b) (copy enclosed for your convenience). Applicant is also encouraged to note 37 CFR 1.121.

Applicant should be aware that while an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent. **See also MPEP 401¶ 4.10.**

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:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Enclosed: **Copy of Form PTO/SB/64 (Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b).**

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANNY R. LEE
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OFFICE OF PETITIONS

In re Application of	:
Lanny R. Lee	:
Application No. 11/063,041	: DECISION GRANTING PETITION
Filed: February 22, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. None	:

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a letter/amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of March 28, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3635.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Lanny R. Lee
ste 324
1358 Hooper Ave.
Toms River NJ 08753-2882

MAILED
JUN 28 2010
OFFICE OF PETITIONS

In re Application of Lanny R. Lee Application No. 11/063,041 Filed: February 22, 2005	: : : : :	ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 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 properly reply in a timely manner to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed May 1, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 2, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1 & 2.

Item 1:

The reply received herewith petition is not in compliance with 37 CFR 1.121. Please review the Notice of Non-Compliant Amendment (37 CFR 1.121) that was mailed on May 1, 2009. The amendment was not signed, a complete listing of the claims with proper status identifiers was not submitted.

Item 2:

The incorrect petition fee was submitted herewith petition. The applicant submitted $270, where the petition fee is $810, $540 is still required to complete the 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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson

Terri Johnson
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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GLAXOSMITHKLINE
Corporate Intellectual Property -UW2220
P.O. Box 1539
King of Prussia PA 19406-0939

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OCT 0 7 2005
OFFICE OF PETITIONS

In re Application of :
Demarini et al. :
Application No. 11/063,045 : ON PETITION
Deposited: February 22, 2005 :
Attorney Docket No.:P50996-C1 :
Title of Invention: Gene :
Manipulation Method Using :
Homologous Recombination

This is a decision on the petition filed July 28, 2005 (certificate of mailing July 25, 2005), requesting that the above-identified nonprovisional application be accorded a filing date of February 22, 2005

Application papers in the above-identified application were deposited on February 22, 2005. However, on May 25, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, on July 28, 2005, petitioner argues the drawings are located in a prior filed PCT application.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

Since the application should have been accorded a filing date and

[1]See 35 U.S.C. 111(a)(4)

a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of February 22, 2005 without drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawing may be submitted. In view of the incorporation by reference of prior application 10/069,767 and claim of priority to PCT/US00/24640, figures 1A-5 would not be considered new matter, if the figures were part of the disclosure of the prior applications. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **February 22, 2005**, without any drawings.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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GLAXOSMITHKLINE
Corporate Intellectual Property -UW2220
P.O. Box 1539
King of Prussia PA 19406-0939

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Demarini et al. :
Application No. 11/063,045 : ON PETITION
Deposited: February 22, 2005 :
Attorney Docket No.:P50996-C1 :
Title of Invention: Gene :
Manipulation Method Using :
Homologous Recombination

This is a decision on the petition filed July 28, 2005 (certificate of mailing July 25, 2005), requesting that the above-identified nonprovisional application be accorded a filing date of February 22, 2005

Application papers in the above-identified application were deposited on February 22, 2005. However, on May 25, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, on July 28, 2005, petitioner argues the drawings are located in a prior filed PCT application.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

Since the application should have been accorded a filing date and

[1] See 35 U.S.C. 111(a)(4)

a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of February 22, 2005 without drawings.

The petition is granted to the extent indicated above. The petition fee will be refunded.

If petitioner desires, an amendment seeking entry of the drawing may be submitted. In view of the incorporation by reference of prior application 10/069,767 and claim of priority to PCT/US00/24640, figures 1A-5 would not be considered new matter, if the figures were part of the disclosure of the prior applications. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **February 22, 2005**, without any drawings.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

7/16/01

Patent No. :7363973
Ser. No. :11063050
Inventor(s) :Nenniger, Nenniger
Issued : 4/29/08
Title : METHOD AND APPARATUS FOR STIMULATING HAEVY OIL PRODUCTION

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Richard A. Arett
VIDAS, ARETT & STEINKRAUS
SUITE 400
6640 SHAY OAK RD.
EDEN PRAIRE, MN

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400
6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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OFFICE OF PETITIONS

In re Patent No. 7,363,973	:	
Application No. 11/063,050	:	
Filed: February 22, 2005	:	ON PETITION
Issued: April 29, 2008	:	
Attorney Docket No. P68.2N-10633-US02	:	

This is a decision on the petition filed August 1, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/1/08

TO SPE OF : ART UNIT 2886

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/063051 Patent No.: 7414723B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

2886
Art Unit

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OFFICE OF PETITIONS

WILLKIE FARR & GALLAGHER LLP
INTELLECTUAL PROPERTY LEGAL ASSISTANTS
787 SEVENTH AVE
NEW YORK NY 10019-6099

In re Application of

MONSEN, Gordon L. et al.
Application No. 11/063,064
Filed: February 22, 2005
Attorney Docket No. **114594-2US1**

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 21, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by David Lee on behalf of all attorneys of record who are associated with customer No. 38492. All attorneys/agents associated with the Customer Number 38492 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 Gordon Monsen 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **GORDON L. MONSEN**
THE NORSEMAN GROUP
800 LANIDEX PLAZA STE 110
PARSIPPANY NJ 07054

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DICKINSON WRIGHT PLLC
38525 WOODWARD AVENUE
SUITE 2000
BLOOMFIELD HILLS MI 48304-2970

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OFFICE OF PETITIONS

In re Application of
Jeorg Schmitz
Application No. 11/063,073
Filed: February 22, 2005
Attorney Docket No.: **SP-30591 (71024-921)**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on September 5, 2007 for failure to timely file a reply to the Final Office action mailed June 4, 2007, which set a three (3) month shortened statutory period for reply. A response filed August 3, 2007 did not place the application in condition for Allowance. An Advisory Action was mailed September 20, 2007. A Notice of Appeal was filed October 4, 2007 but without an extension of time and thus the application became abandoned. Accordingly a Notice of Abandonment was mailed December 26, 2007.

The Notice of Appeal filed October 4, 2007 and Appeal Brief filed December 4, 2007 have been entered and made of record.

Additionally, the record reveals that after the abandonment and with the instant petition to revive, a one month extension of time was filed, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $120.00 extension of time fee submitted with the petition on January 23, 2008 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to Deposit Account No. 04-1061.

This matter is being referred to Technology Center 2134 for processing of the Notice of Appeal and for review of the Appeal Brief filed January 23, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS MI 48304-5086

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OFFICE OF PETITIONS

In re Application of

HOWARD, Sean
Application No. 11/063,083
Filed: February 22, 2005
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Michelle Osinski on behalf of all attorneys of record who are associated with customer No. 26127. All attorneys/agents associated with the Customer Number 26127 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Sean Howard at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **SEAN HOWARD**
355 COMMERCIAL PARK DR.
FAIRHOPE AL 36532

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

LEFFERT JAY & POLGLAZE, P.A.
P.O. BOX 581009
MINNEAPOLIS, MN 55458-1009

Mail Date: 04/21/2010

Applicant	: Petro Estakhri	: DECISION ON REQUEST FOR
Patent Number	: 7607177	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,090	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1277** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis IN 46204

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OFFICE OF PETITIONS

In re Application of	:	
SANDERS, et al.	:	
Application No. 11/063,099	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 16637-0003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 24, 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 Michael C. Bartol, the sole attorney of record. Michael C. Bartol has been withdrawn as attorney or agent of record.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Donald T. Sanders at the address indicated below.

There is an outstanding Office action mailed June 28, 2006 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: **Donald T. Sanders**
2309 West Morris Street
Indianapolis, IN 46221

cc: **Sherri Sherrod**
3102 North Olney Street
Indianapolis, IN 46218

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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
11/063,099	02/22/2005	Donald T. Sanders	16637-0003

CONFIRMATION NO. 7683

OC000000021190627

Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

Date Mailed: 11/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Johannes Rau et al	:	
Application No. 11/063,113	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 93847	:	

This is a decision on the petition, filed October 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 October 18, 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 2873 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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OFFICE OF PETITIONS

Russ Weinzimmer
614 Nashua Street
Suite 53
Milford NH 03055

In re Application of	:	
Jennifer Nicole Tipton	:	
Application No. 11/063,137	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. TIPTON-001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed June 17, 2008, 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 August 18, 2008. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a 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.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3636 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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BAKER BOTTS LLP
2001 ROSS AVENUE
6TH FLOOR
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Emerald J. Adair	: DECISION ON REQUEST FOR
Patent Number	: 7601287	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,156	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/063,170	02/22/2005	3762	2360	279.807US1	3	38	2

CONFIRMATION NO. 7603

CORRECTED FILING RECEIPT

OC000000015769943

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Date Mailed: 04/18/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Imad Libbus, St. Paul, MN;
Jeffrey Ross, Roseville, MN;
Steven D. Girouard, Woodbury, MN;

Assignment For Published Patent Application

Cardiac Pacemakers, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **45458**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/063,170

Projected Publication Date: 08/24/2006

Non-Publication Request: No

Early Publication Request: No

Title

Cell therapy and neural stimulation for cardiac repair

Preliminary Class

607

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LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/063,197	02/22/2005	3621	1000	M61.12-0801	5	20	3

CONFIRMATION NO. 7569

CORRECTED FILING RECEIPT

OC000000015767867

27366
MICROSOFT CORPORATION C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1600 - INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

Date Mailed: 04/18/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Kristi M. Weekley, Lake Park, MN;
Ronald H. Schulz, W. Fargo, ND;
Steven T. Degele, Fargo, ND;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: The patent practitioners associated with Customer Number **27366**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/063,197

Projected Publication Date: 08/24/2006

Non-Publication Request: No

Early Publication Request: No

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Title

Utilizing distribution types to assign attributes to distribution lines in an accounting system

Preliminary Class

705

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

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MAR 10 2008

OFFICE OF PETITIONS

In re Application of
Tonghuo Shang et al.
Application No. 11/063,205
Filed: February 22, 2005
Attorney Docket No. Kulite-102

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 10, 2008 and February 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 requests were signed by Edward J. Howard, on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If you would like to receive future correspondence regarding this application, then the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

A non-final rejection was mailed on November 29, 2007. Failure to timely respond will result in the abandonment of this application.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Tonghuo Shang
15 Harvest Glen
East Lyme, CT 06333

cc: The Plevy Firm
10 Rutgers Place
Trenton, NJ 08618

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/063,205	02/22/2005	Tonghuo Shang	KULITE-102

CONFIRMATION NO. 7552

POWER OF ATTORNEY NOTICE

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

OC000000028722707

Date Mailed: 03/10/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/063,205	02/22/2005	Tonghuo Shang	Kulite-102	7552

76248 7590 01/06/2009
The Plevy Law Firm
10 Rutgers Place
Trenton, NJ 08618

EXAMINER
EDGAR, RICHARD A

ART UNIT	PAPER NUMBER
3745	

MAIL DATE	DELIVERY MODE
01/06/2009	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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The Plevy Law Firm
10 Rutgers Place
Trenton NJ 08618

In re Application of: SHANG, TONGHUO et al. Serial No.: 11/063,205 Filed: Feb. 22, 2005 Docket No. Kulite-102 Title: METHOD AND SYSTEM FOR DETERMINING GAS TURBINE TIP CLEARANCE	DECISION ON RENEWED PETITION TO ACCEPT DUPLICATE PAPER UNDER 37 C.F.R. 1.181

This is a decision on the renewed petition filed on Jul. 30, 2008. The petitioner requests withdrawal of the holding of abandonment pursuant to 37 CFR 1.181(a).

The petition is GRANTED.

The present application was held abandoned for failure to timely respond to the non-final Office action mailed on Nov. 29, 2007 which set a three-month shortened period for reply. Notice of abandonment was mailed on Jun. 23, 2008.

Petitioner asserts that a timely response to the non-final office action was transmitted by facsimile to the Office on Feb. 13, 2008. The petitioner has supplied a copy of a Response to Official Action indicating a transmission date of Feb. 13, 2008. The petitioner has also provided a Certificate of Transmission pursuant to 37 CFR 1.8, dated Feb. 13, 2008. Finally, the petitioner has provided a copy of USPTO acknowledgement facsimile receipt with a date of Feb. 13, 2008.

As petitioner has provided convincing evidence that a timely reply to the non-final Office action of Nov. 29, 2007 was transmitted to the Office on Feb. 13, 2008, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed Jun. 23, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3745 for appropriate action.

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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AUG 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,532,929	:	
Mussig et al.	:	DECISION ON
Issue Date: May 12, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/063,240	:	OF
Filed: February 22, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 117163.00125	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§1.705(d)," filed June 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from seven hundred eleven(711) days to one thousand one hundred sixteen(1,116) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 711 days.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,532,929 with a patent term adjustment of 711 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth* v. *Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR

§ 1.703(b), 405 of the 445 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 711 days do not overlap, as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 445 days. This 445 day period is calculated based on the application having been filed under 35 U.S.C. §111 on February 22, 2005, and the patent having not issued until May 12, 2009, three years and 445 days later. Patentees assert that in addition to this 445 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 711 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1).

Under 37 CFR § 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 0 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (445 days) and the period of Examination Delay (711 days) to the extent that these periods of delay are not overlapping.

Patentees contend that only 40 days of the period of delay of 445 days for the Office's failure 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 (April 23, 2006 to April 2, 2008) overlap with the Three Year Delay period (February 23, 2008 to May 12, 2009). Patentees assert that this overlapping period is the 40 days running from February 23, 2008 to April 2, 2008.

Accordingly, patentees submit that the total period of Office Delay is 1,116 days, which is the sum of the period of Three Year Delay (445 days) and the period of Examination Delay (711 days), reduced by the period of overlap (40 days).

As such, patentees assert entitlement to a patent term adjustment of 1,116 days (445 +711 reduced by 40 overlap -0 for applicant delay).

The Office agrees that the patent issued 3 years and 445 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 711 days is correct. At issue is whether patentees should accrue 405 (adjusted for overlap, per patentees' calculations) days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 711 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 445 period of Three Year Delay overlaps with the 711 days accorded during the pendency of the application. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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]

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 22, 2005

---

[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).

to May 12, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 711 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. The 445 days for Office delay in issuing the patent overlaps with the 711 accorded during the pendency of the application. During that time, the issuance of the patent was delayed by 711 days. The Office took 14 months and 711 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 711 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 445 days after its filing date. Accordingly, 0 days of patent term adjustment was properly entered since the period of delay of 445 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 711 days attributable to ground specified in § 1.702(a)(1).

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent remains 711 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.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Kevin I. Bertness	: DECISION ON REQUEST FOR
Patent Number	: 7598743	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,247	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **299** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MA 02205

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MAR 08 2010

In re Patent of Ozbal et al.	:	DECISION ON REQUEST
Patent No. 7,588,725	:	FOR RECONSIDERATION OF
Issue Date: September 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/063,252	:	AND NOTICE OF INTENT TO
Filing Date: February 22, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 65664CIP5(43382)	:	CORRECTION

This is a decision on the petition filed on November 13, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting that the patent term adjustment indicated on the patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred sixty-nine (969) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred sixty-nine (969) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the period of delay under 35 U.S.C. § 154(b)(1)(B), the over three year period began on February 23, 2008, and ended on December 15, 2008, *the day before* the RCE was filed, and is 297 (not 298) days. See 35 U.S.C. § 154(b)(1)(B)(i). As such, the patent term adjustment is 968 days, not 969 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred sixty-eight (968)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,588,725 B2
ISSUE DATE	:	September 15, 2009
INVENTOR(S)	:	Ozbal et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 775 days.

Delete the phrase "by 775 days" and insert - by 968 days--

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Max Wiki	: DECISION ON REQUEST FOR
Patent Number	: 7625675	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,271	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1093** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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In re Application of	:	
John A. Wickeraad	:	
Application No. 11/063,274	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 200408009-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on September 30, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed May 13, 2008. A Notice of Abandonment was mailed on September 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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Paper No.

JOHN S. BEULICK (13307)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE,
SUITE 2600
ST. LOUIS MO 63102-2740

MAILED

NOV 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Sheltz et al.	:	DECISION ON PETITION
Application No. 11/063,317	:	
Filed: February 22, 2005	:	
Atty Docket No. 9D-EC-19863	:	
(13307-724)	:	

This is a decision on the PETITION TO REVIVE PATENT APPLICATION FOR UNINTENTIONAL FAILURE TO TIMELY RESPOND TO OFFICE ACTION filed May 6, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed September 4, 2008. The restriction requirement set a one month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No timely reply or extension of time filed, the application became abandoned effective October 5, 2008. A courtesy Notice of Abandonment was mailed on March 18, 2009.

The petition includes the required reply in the form of an election and payment of the petition fee. In addition, the petition includes the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 3627 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed May 6, 2009.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON, IA 50131-0552

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MAR 30 2010

OFFICE OF PETITIONS

In re Application of
Rudolf JUNG, *et al.*
Application No. 11/063,325
Filed: February 22, 2005
Attorney Docket No. **1276R2**

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 January 8, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 21, 2009. Accordingly, the date of abandonment of this application is December 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **KATHRYN K. LAPPEGARD**
7250 NW 62ND AVENUE
JONSTON, IA 50131

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PATENTS AND TRADEMARKS
4407 TWIN OAKS DRIVE
MURRYSVILLE PA 15668

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OCT 26 2006

OFFICE OF PETITIONS

In re Application of Aschoff et al Application No. 11/063,340 Filed: February 22, 2005 Attorney Docket No. MB 458	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowability of January 6, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Publishing Division for review of the drawings submitted May 24, 2006.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/15/08

TO SPE OF : ART UNIT 3636 Peter Brown

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/063358 Patent No.: 7055889

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

_____
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

DAVID DUNN
~~SUPERVISORY PATENT EXAMINER~~
SPE

3636
Art Unit

PTOL-306 (REV. 7/03)

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200 EAST LAS OLAS BOULEVARD
SUITE 2040
FORT LAUDERDALE FL 33301

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Tomasz TROCZYNSKI, et al	:	
Application No. 12/063,375	:	DECISION ON PETITION
Filed: March 11, 2008	:	TO WITHDRAW
Attorney Docket No. 1418-3PUS	:	FROM RECORD
	:	

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 8, 2010.

The request is **NOT APPROVED.**

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record 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 under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of the first named inventor or an assignee of the entire interest under 37 C.F.R 3.71.

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-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Rao et al.	:	
Application No. 11/063,381	:	ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 308663.01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 16, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2169 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition..

Liana Walsh
Petitions Examiner
Office of Petitions

cc: KRAJEC PATENT OFFICES, LLC
820 WELCH AVENUE
BERTHOUD, CO 80513

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ADAMS & WILKS
17 BATTERY PLACE, SUITE 1231
NEW YORK, NY 10004

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OFFICE OF PETITIONS

In re Application of :
HAYASHI, et al. :
Application No. 11/063,388 :
Filed: February 22, 2005 :
Attorney Docket No. **S004-5467** :

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 5, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 17, 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 2814 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed on October 17, 2008.

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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MICHAUD-DUFFY GROUP LLP
306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN, CT 06457

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of	:
Pilpel, et al.	: DECISION REFUSING STATUS
Application No. 11/063,420	: UNDER 37 CFR 1.47(a)
Filed: February 22, 2005	:
Atty. Dkt. No.: 4834-0016-1	:
For: THERMOPLASTIC COMPOSITE	:
BOW RISER, LIMB, AND CAM	

This decision is in response to the petition under 37 CFR 1.47(a), filed June 29, 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 February 22, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 25, 2005 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition lacks item (1) set forth above.

Petitioners have failed to establish that the non-signing inventor refused to execute the declaration after having been presented with a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

Before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioners have failed to establish that the non-signing inventor received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventor was sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioner may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after the inventor receives the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed 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

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN CT 06457

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of	:
Pilpel, et al.	: DECISION NOTING JOINDER
Application No. 11/063,420	: OF INVENTOR AND PETITION
Filed: February 22, 2005	: UNDER 37 CFR 1.47(a) MOOT
Docket No.: 4834-0016-1	:

This is a decision on the petition renewed under 37 CFR 1.47(a), filed October 12, 2005, to revive the above-identified application.

The petition is **GRANTED**.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MICHAEL W. STARKWEATHER
SUITE 200
9035 SOUTH 1300 EAST
SANDY, UT 84094

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MAR 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Sharon Yingst	:	
Application No. 11/063,432	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 3164.2.1NP	:	37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed August 19, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (c) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center Art Unit 1655 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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KEVIN L. KLUG
ATTORNEY AT LAW
11237 CONCORD VILLAGE AVENUE
ST. LOUIS, MO 63123-2273

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OFFICE OF PETITIONS

In re Application of	:	
Alan W. Schaefer et al	:	
Application No. 11/063,434	:	DECISION ON PETITION
Filed: February 23, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. SCHAEFERSGS	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 30, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Alan W. Schaefer stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1724 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

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OFFICE OF PETITIONS

In re Application of	:	
Jiang	:	
Application No. 11/063,446	:	DECISION ON PETITION
Filed: February 23, 2005	:	TO WITHDRAW
Attorney Docket No. RMWR.P016	:	FROM RECORD
	:	

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 24, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Courtney Staniford & Gregory, LLP has been revoked by the assignee of the patent application on June 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

KARUR SRINIVASA RANGAN
36 ABERFELDY CRESCENT
THORNHILL ON L3T-4C2 CA CANADA

MAILED

FEB 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Rangan KARUR	:	
Application No. 11/063,461	:	DECISION ON PETITION
Filed: February 24, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.	:	

This is a decision on the petition, filed February 26, 2009, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing (See 37 CFR 1.137(f)) and the petition to make special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV filed February 24, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of applications filed in an eighteen-month publication country on June 26, 2008. However, the USPTO was unintentionally not notified of these filings 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 6, 2010 accompanies this decision on petition.

The petition under 37 CFR 1.102(c)(1) is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes the certification of inventor Karur S. Rangan, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center Art Unit 2434 for examination in due course.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/063,461	02/24/2005	Rangan Karur	

CONFIRMATION NO. 7789

NONPUBLICATION RESCISSION LETTER

"OC000000039812663"

AIR MAIL
54177
KARUR SRINIVASA RANGAN
36 ABERFELDY CRESCENT
THORNHILL, ON L3T-4C2
CANADA

Date Mailed: 01/22/2010

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 05/06/2010.

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".

/magraves/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MAR 16 2009

OFFICE OF PETITIONS

WYETH
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

In re Application
Lee, et al.
Application No. 11/063,475
Filed: February 23, 2005
Dkt. No.: AM101400

: PATENT TERM ADJUSTMENT

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed December 19, 2008.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 25, 2008. Applicants argue that the application is entitled to an additional adjustment of 215 days pursuant to 37 CFR 1.702(b). Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does

not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The required patent term adjustment fee of $200.00 has been charged to applicants' deposit account, as authorized.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON NJ 07940

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DEC 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,521,473 :
Issued: April 21, 2009 :
Application No. 11/063,475 : PATENT TERM ADJUSTMENT
Filed: February 23, 2005 :
Dkt. No.: AM101400 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed April 24, 2009. Patentee requests that the patent term adjustment be corrected from 595 days to 1,016 days. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,521,473 on April 21, 2009. The patent issued with a patent term adjustment of 595 days. Patentees request correction of the patent term adjustment from 595 days to 1,016 days. on the sole basis that the Office took in excess of three years to issue the above-referenced patent. Patentees reference Wyeth v. Dudas, Civil Action No. 07-1492, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. Sept. 30, 2008) and assert that the patent is entitled to an adjustment of 1,016 days (624 days pursuant to 35 USC 154(b)(1)(A) *plus* 423 days pursuant to 35 USC 154(b)(1)(B) *less* 31 days of applicant delay).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on April 21, 2009, the application was pending three years and 423 days after its filing date. The Office agrees that at the time of issuance, certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 626 days is correct (624 days pursuant to 37 CFR 1.702(a)(1) and four days pursuant to 37 CFR 1.702(a)(4)). At issue is whether patentees should accrue 423 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 626 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 423 days of delay in issuance of the patent under 37 CFR 1.702(b) overlaps with the period of 626 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:

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)*[1] *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).

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).

---

[1] 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.

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 23, 2005, and ending on the date that the patent issued, April 21, 2009.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a), the application was accorded 626 days of examination due to examination delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), the application was pending three years and 423 days prior to the issuance of the patent.

The 423 days of delay in issuance of the patent under 37 CFR 1.702(b) overlap with the 626 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 626 days and the 423 days is neither permitted nor warranted given that 626 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, having considered the 423 days of Office delay under the three-year pendency provision in conjunction with the 626 days of examination delay reduced 31 days for applicant delay, the Office properly entered 595 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

No additional fees are due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LAW OFFICE OF ALAN W. CANNON
942 MESA OAK COURT
SUNNYVALE CA 94086

In re Application of :
Spence, et. al : DECISION ON PETITION
Application No. 11/063,478 :
Filed: February 23, 2005 :
Docket No.: GUID-024CON12 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 3, 2007.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed August 23, 2006. Notice of Abandonment was mailed December 20, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

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In re Application of	:	
WILLIS, John P.	:	
Application No. 11/063,500	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. **BVTP-P03-002**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 09, 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 Yu Lu 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 address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed May 06, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-42131.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOHN P. WILLIS**
24 WHITNEY ROAD
SHIRLEY, MA 01464

cc: **MR. MARK LEWIS**
SENIOR DIRECTOR, PROGRAM MANAGEMENT
VALERITAS LLC
800 BOSTON TURNPIKE
SHREWSBURY, MA 01545

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OCT 29 2009

OFFICE OF PETITIONS

BALLARD SPAHR LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

In re Patent No. 7,337,061	:	
Issue Date. February 26, 2008	:	
Application No. 11/063,589	:	NOTICE
Filed: February 24, 2005	:	
Attorney Docket No. 01257.0001U3	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

The patent file will be forwarded to the Files Repository.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/15/09

TO SPE OF : ART UNIT 2862

SUBJECT : Request for Certificate of Correction for Appl. No.: 11063603 Patent No.: 7606485

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: _____

Clayton E. Laballe 2862

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Masahito Ohashi	: DECISION ON REQUEST FOR
Patent Number	: 7606485	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,603	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **99** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Yoshio Yoshizu	: DECISION ON REQUEST FOR
Patent Number	: 7580552	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,611	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **776** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Senniger, Powers, LLP (MSFT)
One Metropolitan Square
16th Floor
St. Louis, MO 63102

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OFFICE OF PETITIONS

In re Application of	:	
Gueorgui B. Chkodrov et al.	:	
Application No. 11/063,622	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. MS#311103.01 (5153)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 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 May 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 23, 2007. A Notice of Abandonment was mailed on December 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2162 for appropriate action by the Examiner in the normal course of business on the reply received February 25, 2008.

Andrea Smith
Petitions Examiner
Office of Petitions

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ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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OFFICE OF PETITIONS

In re Application of	:	
Dale W. Malik	:	
Application No. 11/063,632	:	DECISION ON PETITION
Filed: September 26, 2007	:	
Attorney Docket No. 02189CIP2	:	

This is a decision on the petition, filed August 25, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

Petitioner requests the Notice of Abandonment mailed August 25, 2009 for failure to respond to the Office action mailed October 27, 2008 be withdrawn as petitioner timely filed a response. As evidenced by the mailing of Notice of Panel Decision from Pre Appeal Brief Review, mailed April 8, 2009, applicant had one month from the mailing of the decision or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief was extendable under 37 CFR 1.136 based upon the mail of the Panel Decision or the receipt date of the notice of appeal as applicable. Furthermore, a review of record indicates that was not abandoned and applicant filed a time reply to the Notice mailed April 8, 2009.

As the reply authorized the charging of a five-month (5) extension of time due the Notice of Abandonment was premature. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of April 8, 2009 is hereby **withdrawn** and the application **restored to pending status**.

The required surcharge for the Notice was received in the Office on October 7, 2009. The required five- month (5) extension of time was charged to petitioner's deposit account as authorized in the reply filed October 7, 2009.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquires concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2452 for appropriate action in the normal course of business on the reply received with petition.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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GRAYBEAL JACKSON HALEY LLP
SUITE 350
155-108TH AVENUE N.E.
BELLEVUE, WA 98004-5973

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OFFICE OF PETITIONS

In re Application of :
Jose Di Martino et al :
Application No. 11/063,651 : ON PETITION
Filed: February 22, 2005 :
Attorney Docket No. 2110-142-3 :

This is a decision on the petition filed August 15, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

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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Paper No. None

CyVera Corporation
C/O PortfolioIP
P.O. Box 52050
Minneapolis MN 55402

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AUG 03 2005

OFFICE OF PETITIONS

In re Application of
Martin A. Putnam et al.
Application No. 11/063,665
Filed: February 22, 2005
Attorney Docket No.: 714-001.004-1
Title: MULTI-WELL PLATE WITH ALIGNMENT GROOVES FOR ENCODED MICROPARTICLES

DECISION ON PETITION

This is a decision on the petition filed June 30, 2005, requesting that Figure 39 be accorded a filing date of February 22, 2005, as part of the original disclosure.

The application was deposited on February 22, 2005. However, on April 29, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application (notice)," stating that the application had been accorded a filing date, and advising applicants that the application appeared to have been deposited without Figure 39. The notice set a two-month period for response.

In response, on June 30, 2005, applicants filed the present petition. Applicants request that Figure 39 be accorded a filing date of February 22, 2005 as part of the original disclosure.

It is noted that 36 sheets of drawings have been located in the electronic file, including Figure 39. As such, Figure 39 has been located in the electronic file.

Upon review of the record, the above-mentioned figure has been located among the application papers. As such, the evidence is convincing that the application papers deposited on February 22, 2005 included Figure 39.

Therefore, the application, including Figure 39, was complete on filing and this figure is entitled to a filing date of February 22, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed April 29, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $400 has not been charged to Petitioner's Deposit Account.

The Office of Initial Patent Examination will be advised to process this application with a filing date of February 22, 2005, using the original application papers filed on that date, as well as Figure 39 submitted on filing, and for indication in Office records that this figure was present on filing.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Illumina, Inc., CyVera Corporation subsidiary
50 Barnes Park North
Wallingford, CT 60492

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ANDREA Q. RYAN
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

Mail Date: 04/20/2010

Applicant	: Kun Guo	: DECISION ON REQUEST FOR
Patent Number	: 7662628	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,691	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **759** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ELMORE PATENT LAW GROUP, PC
515 Groton Road
Unit 1R
Westford, MA 01886

Mail Date: 04/26/2010

Applicant	: Christopher J. Nagel	: DECISION ON REQUEST FOR
Patent Number	: 7655160	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/063,694	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **881** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Practitioner's Docket No. RD50/01 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: ROBERT B. RIGBY

Application No.: 11/063710 Group No. 1744

Filed: Herewith 2-23-05 Examiner: Snider

For: GUTTER SWEEPER SYSTEM

Commissioner for Patents
Alexandria, VA 22313-1450

ATTENTION: Group Director, Group _____ (M.P.E.P. § 1002.02(c))

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 copy of applicant's driver's license evidencing that he is over 65 years of age.

No fee is required with this petition, in accordance with 37 C.F.R. § 1.102(c).

SIGNATURE OF PRACTITIONER

Reg. No.: 46,676

Tel. No. (727) 734-2855

Edward P. Dutkiewicz
640 Douglas Avenue
Dunedin, Florida 34698

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700
JUL 25 2005

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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kubota, et al. :
Application No. 11/063,718 :
Filed: February 22, 2005 :
Attorney Docket No. 49639-DIV (70820) :

This is a decision on the petition under 37 CFR 1.10(c), filed May 9, 2005, requesting that the above-identified application be accorded a filing date of February 22, 2005, rather than the presently accorded filing date of February 23, 2005.

Petitioners allege that the application was deposited in Express Mail service on February 22, 2005. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV437817297US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of February 22, 2005.

In view of the above, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of February 22, 2005.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of February 22, 2005 and issuance of a corrected filing receipt. Thereafter, the application will be forwarded to Technology Center 2600 for examination *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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Williams W. Enders
O'KEEFE, EGAN & PETERMAN
Building C, Suite 200
1101 Capital of Texas Highway South
Austin, TX 78746

Mail Date: 04/21/2010

Applicant	: Robert L. Winter	: DECISION ON REQUEST FOR
Patent Number	: 7574594	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1101 CAPITAL OF TEXAS HIGHWAY SOUTH
#C200
AUSTIN TX 78746

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OFFICE OF PETITIONS

In re Application of
CHADALAVADA
Application No. 11/063,779
Filed: February 23, 2005
Attorney Docket No. DELL:017

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 12, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Maximilian R. Peterson. Maximilian R. Peterson has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Denise Pothier
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03-25-08

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/063782** Patent No.: **7286082**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

SPE — **Art Unit** 3662

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TECHNOLOGY CENTER 3600

CRAIG W. RODDY
Halliburton Energy Services
P.O. Box 1431
Duncan, OK 73536-0440

In re application of	:	**DECISION ON PETITION**
Jiten Chatterji et al.	:	**TO MAKE SPECIAL**
Application No. 11/063,783	:	**(APPLICANT'S AGE)**
Filed: February 23, 2005	:	
For: CEMENT COMPOSITIONS COMPRISING IMPROVED LOST CIRCULATION MATERIALS AND METHODS OF USE IN SUBTERRANEAN		

This is a decision on the petition submitted on February 23, 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. Chatterji indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/23/05

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant(s): Venkat Selvamanickam, et al.

Title: SUPERCONDUCTIVE ARTICLES HAVING DENSITY CHARACTERISTICS

App. No.: 11/063,784 Filed: February 23, 2005

Examiner: UNASSIGNED Group Art Unit: 1751

Atty. Dkt. No. 1014-SP241

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Sir:

In accordance with Rule 1.102 and MP,P § 708.02 IX entitled "Special Status for Patent Applications Relating to Superconductivity," applicants respectfully request that the above-identified application be accorded special status. The above-identified application contains inventions involving superconductive materials. Accordingly, advancement of the above-identified application is respectfully requested.

No PTO fees are required for consideration and granting of this petition, in accordance with MPEP § 708.02 IX.

Respectfully submitted,

4/11/05
Date

Jeffrey S. Abel, Reg. No. 36,079
Attorney for Applicant(s)
Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746
(512) 327-5515(phone)
(512) 327-5452 (fax)

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

APR 2 6 2005

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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
4199 Kinross Lakes Parkway
Suite 275
RICHFIELD OH 44286

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Kelly C. Richelsoph et al.	:	
Application No. 11/063,797	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 702.197	:	

This is a decision on the petition, filed February 10, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Non-final Office action mailed May 27, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 12, 2008.

Petitioner asserts that the Office action dated May 27, 2008, 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 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 fails to satisfy item (3) of the above-stated requirements in that the copy of the practitioner's record(s) required to show non-receipt of the Office action does not 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. *See* MPEP § 711.03(c)(I)(A).

Accordingly, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 petition fee ($1540 for a Large Entity). It is noted that the applicant has been charged $750 as authorized in the petition. Should the applicant not elect to file a petition for revival under 37 CFR 1.137(b), the applicant may wish to request a refund of the $750 fee. However, if the applicant wishes to file a petition under 37 CFR 1.137(b), the unpaid balance in the petition fee ($20 in this instance) should be included with such a petition.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement.

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MAY 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Kelly C. Richelsoph et al.	:	
Application No. 11/063,797	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 702.197	:	

This is a decision on the renewed petition, filed September 14, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Non-final Office action mailed May 27, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 11, 2008.

Petitioner asserts that the Office action dated May 27, 2008, 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 master 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.

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.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571) 272-4914.

This application is being referred to the Technology Center technical support staff of Art Unit 1612 for re-mailing the Office action of May 27, 2008. 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) 272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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WRIGHT MEDICAL TECHNOLOGY, INC.
LEGAL DEPARTMENT
5677 AIRLINE ROAD
ARLINGTON TN 38002-9501

MAILED
JUN 04 2010
OFFICE OF PETITIONS

In re Application of	:	
Kelly C. Richelsoph et al.	:	CORRECTED
Application No. 11/063,797	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 702.197	:	

This is a corrected decision on the renewed petition, filed September 14, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. The decision was previously mailed to an incorrect address.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Non-final Office action mailed May 27, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 11, 2008.

Petitioner asserts that the Office action dated May 27, 2008, 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 master 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.

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 1612 for re-mailing the Office action of May 27, 2008. 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) 272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Damon Oliver Casati Troutman	: DECISION ON REQUEST FOR
Patent Number	: 7568242	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **37** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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: 04/26/2010

Applicant	: Genkum Jason Yang	: DECISION ON REQUEST FOR
Patent Number	: 7600057	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/063,815	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **583** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

In re Application of
Kenji Sakane, et al.
Application No.: 11/063,847
Filed: February 23, 2005
Attorney Docket No.: 122891

ON PETITION

This is a decision on the petition, filed June 3, 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 May 6, 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 1793 for further processing of the request for continued examination under 37 CFR 1.114 filed June 3, 2008.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Application of	:	
Kenji Sakane et al	:	
Application No. 11/063,847	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 122891	:	

This is a decision on the petition filed May 23, 2008, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed August 13, 2007 be withdrawn The $400 petition fee has been received.

The petition is granted.

Petitioners assert that the terminal disclaimer filed to obviate an obviousness type double patenting rejection identified the wrong target application. The examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-3208

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Paper No. None

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191

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JUL 12 2005
OFFICE OF PETITIONS

In re Application of
Akihiro Taguchi
Application No. 11/063,864
Filed: February 24, 2005
Attorney Docket No.: 12-069
Title: TIRE CONDITION DETECTING DEVICE, TIRE CONDITION MONITORING SYSTEM, AND METHOD OF ATTACHING TIRE CONDITION DETECTING DEVICE TO TIRE WHEEL

DECISION ON PETITION

This is a decision on the petition filed May 19, 2005, requesting that the above-identified application, including page 25 of the specification, be accorded a filing date of February 24, 2005 as part of the original disclosure.

The application was deposited on February 24, 2005. However, on March 22, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that page 25 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on May 19, 2005, applicants filed the present petition. The petition is further accompanied by a copy of page 25 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "31 page specification including 12 numbered claims" in the United States Patent and Trademark Office (Office) on February 24, 2005. Applicants request that page 25 of the specification be accorded a filing date of February 24, 2005.

It is noted that 25 pages of specification have been located in the electronic file, along with 4 pages of claims and a 1 page abstract.

Upon review of the record, the above-mentioned page has not been located among the application papers. However, the evidence is

convincing that the application papers deposited on February 24, 2005 included page 25 of the specification, and this sheet was subsequently misplaced in the Office.

Therefore, the application, including page 25 of the specification, was complete on filing and entitled to a filing date of February 24, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed March 22, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

OIPE will be advised to process the application with a filing date of February 24, 2005, using the original application papers filed on that date, as well as page 25 of the specification submitted on May 19, 2005, and for noting in Office records that this page was present on filing.

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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In re Application of	:	
Young Hoon Kang et al	:	
Application No. 11/063,870	:	DECISION GRANTING PETITION
Filed: February 24, 2005	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. Q83828	:	

This is a decision on the petition, filed August 19, 2008, 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. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

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WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

MAILED

3 1 MAY 2006

In re Application of :
Go KURODA, et al. :
Application No. 11/063,872 :
Filed: February 23, 2005 :
For: **TERMINAL APPARATUS FOR ENABLING A PLURALITY OF DIFFERENT COMMUNICATION SYSTEMS TO COEXIST** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 15, 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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Vassil S. Georgiev
121 Kent Oaks Way
Gaithersburg MD 20878

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of

Georgiev Vassil Stefanov
Application No. 11/063,882
Filed: February 24, 2006
Attorney Docket No.

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1) to make the above-identified application special based on applicant's age as set forth in MPEP 708.02, Section IV, and 1.102(c)(2)(iii) to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI, filed August 1, 2006.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicants Passport showing proof of age over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

In view of the above, the additional petition to make special under 37 CFR 1.102(c)(2)(iii) is hearby dismissed as moot.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1621 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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DALLAS F. SMITH
GOWLING LAFLEUR HENDERSON LLP
2600-160 ELGIN STREET
OTTAWA ON K1C 1P3
CANADA

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Smith, Erickson, Darling, and	:	
Maruvada	:	DECISION REFUSING STATUS
Application No. 11/063,883	:	UNDER 37 CFR 1.47(a)
Filed: 24 February, 2005	:	
Atty Docket No. 08-892808US1CIP	:	

This is in response to the paper styled as a petition under 37 CFR 1.47(a), filed on 18 May, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 24 February, 2005, without an executed oath or declaration. Accordingly, on 22 March, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for their late filing. A two (2) month period for reply was set.

In response, on 18 May, 2005, a petition under 37 CFR 1.47(a), the present petition and late filing surcharge were filed. Additionally, a declaration naming Jeffrey Allen Smith, Ron Erickson, Dale Darling, and Prasad Maruvada as joint inventors

and signed by all inventors except Erickson on behalf of themselves and non-signing joint inventor Erickson was filed.

Petitioners assert that joint inventor Erickson has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1) and (2).

In regards to item (1), petitioners have not shown that joint inventor Erickson was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1]

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

---

[1] MPEP 409.03(d).

In regard to item (2), the oath or declaration is defective in that the first page of the declaration in compliance with 37 CFR 1.63, identifying the application by title and stating that the inventors have reviewed and understand the specification and acknowledging the duty to disclose information material to patentability, appears to have been omitted. A new oath or declaration in compliance with 37 CFR 1.63 identifying all of the inventors and signed by all of the signing inventors on behalf of themselves and the non-signing inventor is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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SEP 2 4 2009

OFFICE OF PETITIONS

In re Application of Ahn et al. :
Application No. 11/063,912 :
Filing Date: February 23, 2005 :
Attorney Docket No. 5649-1429 :

Decision on Petition

This is a decision on the petition filed May 4, 2009, under 37 CFR 1.181 to withdraw the holding of abandonment of 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(a)."

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 2008, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 3, 2009.[1] A Notice of Abandonment was mailed on April 30, 2009.

Petitioner contends the failure to timely reply to the October 1, 2008 Office action was the result of a failure to receive the Office action.

The petition is signed by Attorney Robert Glatz. The petition states Attorney Glatz verified there was no indication in the law firm's docket record that the Office action was received. The petition states Glatz verified the Office action was not listed on the mail sheets for mail received on October 3, 6, 7, and 8 of 2008.

As stated in MPEP 711.03(c)(I)(A), in order to establish non-receipt of an Office action,

> 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

[1] January 1, 2009, was a federal holiday. Therefore, a timely reply could have been timely filed as late as January 2, 2009.

Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The petition cannot be granted for the following reasons:

(1) The petition fails to state Glatz made a search of the file jacket or the equivalent at the law firm;

(2) The petition is not accompanied by a copy of a master docket report or a statement the firm does not maintain a master docket; and

(3) The petition is not accompanied by a copy of the mail sheets for October 3, 6, 7, and 8 of 2008.

Any request for reconsideration should include the missing items identified above.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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RALEIGH, NC 27627

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OFFICE OF PETITIONS

In re Application of Ahn et al. :
Application No. 11/063,912 :
Filing Date: February 23, 2005 :
Attorney Docket No. 5649-1429 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed October 2, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 1, 2008, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on January 3, 2009.[1] A Notice of Abandonment was mailed on April 30, 2009.

Petitioner contends the failure to timely reply to the October 1, 2008 Office action was unavoidable because petitioner never received the Office action.

Petitioner has proven non-receipt of the October 1, 2008 Office action and satisfied the requirements to revive the above-identified application pursuant to 37 CFR 1.137(a). Therefore, the application is hereby revived.

Technology Center Art Unit 2433 will be informed of the instant decision and the application, including the amendment filed May 4, 2009, will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] January 1, 2009, was a federal holiday. Therefore, a timely reply could have been timely filed as late as January 2, 2009.

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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Wong, Cabello, Lutsch, Rutherford & Brucculeri LLP
20333 SH 249, Suite 600
Houston, TX 77070

Mail Date: 04/21/2010

Applicant	: Mario Zamora	: DECISION ON REQUEST FOR
Patent Number	: 7657414	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,913	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
SUITE 225
445 BROAD HOLLOW ROAD
MELVILLE, NY 11747

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MAY 2 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Falciglia, Sal Sr.	:	
Application No. 11/063,939	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 674-24	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 9, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3714 for action on the merits commensurate with this decision.

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

Rashida A. Karmali, PhD
13th Floor
99 Wall Street
New York NY 10005

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JUN 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Rashida A. Karmali	:	
Application No. 11/063,943	:	DECISION ON PETITION
Filed: February 2, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 134.005	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 16, 2008, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a copy of the applicant's passport proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
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

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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NOV 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael D. Furtaw et al	: **DECISION**	
Application No. 11/063,955	: **GRANTING**	
Filed: February 22, 2005	: **PETITION**	
Attorney Docket No. 020031-008210US	:	

This is a decision on the petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed on November 18, 2008.

This decision also addresses the request for continued examination under 37 CFR 1.114, filed on November 18, 2008.

The petition under 37 CFR 1.137(b) and the request for continued examination, filed on November 18, 2008, and the record as a whole, are before the Office of Patent Legal Administration for consideration.

The petition fee of $810 set forth in 37 CFR 1.17(m) for the present petition under 37 CFR 1.137(b) has been charged to deposit account no. 20-1430 as authorized on page 2 of the November 18, 2008 petition.

SUMMARY

The petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed on November 18, 2008, is **granted**. The request for continued examination, filed on November 18, 2008, is **improper**, and **has not been entered**.

DECISION

A nonfinal Office action was mailed in the above-identified application, no. 11/063,955 ("the '955 application") on March 9, 2007, setting a shortened statutory period for reply of three months from the mail date of the action. In reply to the nonfinal Office action, Mr. William Prendergast, a patent practitioner, filed via facsimile on November 9, 2007, copies of a nine-page amendment, a three-month extension of time, a transmittal letter, and a postcard receipt. The copy of the postcard receipt, which was submitted as proof of the timely receipt of the November 9, 2007 submission in the United States Patent and Trademark Office ("the Office"), bears an Office date stamp of September 10, 2007,[1] and lists a nine-page amendment, a petition and fee for an extension of time, and a transmittal [letter]. Pursuant to MPEP 503, such a

[1] September 9, 2007 was a Sunday.

submission, if properly executed, would normally be accepted as timely filed.[2]

The amendment submitted via facsimile on November 9, 2007 was entered, and a final rejection was mailed on February 14, 2008. Prosecution progressed until August 22, 2008, when a notice of allowance was mailed.

The amendment filed via facsimile on November 9, 2007, however, was not signed.[3] Furthermore, the applicant has provided, with the present petition, evidence that the postcard receipt, which was submitted via facsimile on November 9, 2007, may have been fabricated.[4] The applicant further states that "it is believed that the November 9, 2007 facsimile transmission of [the amendment] to the USPTO was the first filing of the Amendment to the Office Action dated March 9, 2007." [5] The '741 application, therefore, was abandoned as of June 12, 2007,[6] due to the failure to timely reply to the nonfinal Office action of March 9, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) a reply to the outstanding Office action, (2) the petition fee set forth in 37 CFR 1.17(m), and (3) a proper statement under 37 CFR 1.137(b)(3) that the entire delay in filing the required reply from the due date of the reply to the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. The applicant has filed, with the November 18, 2008 petition, a petition fee under 37 CFR 1.17(m), and a statement under 37 CFR 1.137(b)(3) (see page 2 of form PTO/SB/64), which satisfy items (2) and (3), respectively.

The applicant has also filed (a) a properly executed[7] copy of the amendment originally submitted via facsimile on November 9, 2007, in reply to the March 9, 2007 nonfinal Office action, and (b) an issue fee payment in reply to the August 22, 2008 notice of allowance, which, together, satisfy item (1).[8]

In general, a party is bound by the actions of his counsel. See *Link v. Wabash R.R.*, 370 U.S. 626, 82 S. Ct. 1386 (1962). However, where counsel apparently has made an intentional misrepresentation and has falsified a document, the applicant is permitted, during the prosecution of the application, to "cure" the misrepresentation. See *Rohm and Haas v. Crystal Co.*, 722 F.2d 1556, 1571-1572, 220 USPQ 289, 301-302 (Fed. Cir. 1983), in which the court held:

---

[2] MPEP 503 provides, in pertinent part:

> 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.

[3] See page 9 of the November 9, 2007 amendment.

[4] See the paper entitled "Supplemental Information Disclosure Statement Under 37 CFR §1.97 and §1.98", and accompanying exhibits 1 and 2.

[5] See page 3 of the paper entitled "Supplemental Information Disclosure Statement Under 37 CFR §1.97 and §1.98", which accompanied the present petition.

[6] June 9, 2007 was a Saturday.

[7] The copy of the amendment originally submitted on November 9, 2007, was re-submitted on November 19, 2009, and signed by Mr. Joseph Snyder, currently of record. In the letter accompanying the November 19, 2009 submission, Mr. Snyder verifies that he is ratifying the November 9, 2007 submission originally submitted by Mr. Prendergast.

[8] See the submission filed November 19, 2009.

> "[T]he narrow issue . . . is whether voluntary efforts during prosecution by or on behalf of an applicant, knowing that misrepresentations have been made to the examiner of his application, can ever alleviate this effect. Taking into account human frailty and all of the objectives of the patent system, we think it desirable to permit misdeeds to be overcome under certain limited circumstances.
>
> The first requirement to be met by an applicant aware of misrepresentation in the prosecution of his application and desiring to overcome it, is that he expressly advise the PTO of its existence, stating specifically wherein it resides. The second requirement is that, if the misrepresentation is of one or more facts, the PTO be advised what the actual facts are, the applicant making it clear that further examination in light thereof may be required if any PTO action has been based on the misrepresentation. Finally, on the basis of the new and factually accurate record, the applicant must establish patentability of the claimed subject matter.

In *Rohm and Haas,* an intentional misrepresentation was made in affidavits that were filed to overcome a rejection of the claims. In the present case, the attorney apparently intentionally misrepresented the filing date of a reply, which would cause the reply to appear to have been timely filed. Since the attorney apparently intentionally misrepresented the filing date of the reply to the examiner of this application, the holding of *Rohm and Haas* is considered to apply to the facts of this case. Regarding the first and second requirements set forth in *Rohm and Haas*, the applicant has advised the Office of the misrepresentation of the filing date for the reply to the March 9, 2007 Office action, and has stated that the applicant believes that the November 9, 2007 facsimile transmission of the reply was the first filing of the reply to the Office action, making it clear that the application was abandoned, and that the filing of the present petition under 37 CFR 1.137(b) was required to revive the application. Regarding the third requirement set forth in *Rohm and Haas*, a notice of allowance was mailed in this application on August 22, 2008. Because the misrepresentation in this application was solely directed to the filing date of the reply to the March 9, 2007 Office action, and did not involve the substantive issues relating to the disclosure of the application, the notice of allowance mailed on August 22, 2008 remains proper.

In 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, the Office is relying on the duty of candor and good faith of the applicant and of applicant's representative. See also 37 CFR 1.4(d)(4), which incorporates 37 CFR 11.18(b), and *Changes to Patent Practice and Procedure,* 62 Fed. Reg. 53131, 53160, 53178; 1203 *Off. Gaz. Pat. Office* 63, 88, 103 (responses to comment nos. 64 and 109) (October 21, 1997) (final rule) (applicant's representative is obligated under [former] 37 CFR 10.18(b) [now 37 CFR 11.18(b)] to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b)(3) to the Office).

Accordingly, based on the certification under 37 CFR 1.4(d)(4), which incorporates 37 CFR 11.18(b), and on the specific facts and circumstances of this application, the petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application, filed on November 18, 2008, is **granted**.

The request for continued examination, filed on November 18, 2008, does not comply with the submission requirements of 37 CFR 1.114(c). Specifically, the paper entitled "Supplemental Information Disclosure Statement Under 37 CFR §1.97 and §1.98" and accompanying exhibits 1 and 2, filed on November 18, 2008, is not a proper submission because it is solely directed to the support and explanation of the present petition under 37 CFR 1.137(b) to revive the application. There is nothing in this paper, or in the accompanying exhibits, that is directed to the substantive issues of the disclosure of the present application; i.e., there is nothing for the examiner to consider. For this reason, the request for continued examination, filed on November 18, 2008, is **improper**, and **has not been entered**.

This application is being referred to the Office of Data Management, Patent Publication Branch, for processing of the issue fee payment.

Any inquiry concerning this decision should be directed to Cynthia L. Nessler, Senior Legal Advisor, at (571) 272-7724.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration

APR 2 1 2005

PATENT
Attorney Docket No. 16457US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

LEONARD T. LEWIS

Serial No.: 11/063,960

Filing Date: February 22, 2005

For: HYDROPHOBIC STARCH HAVING NEAR-NEUTRAL DRY PRODUCT PH

Examiner: Not yet assigned

Group Art Unit No.: 1751

Confirmation No. 8140

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop: Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 19, 2005.

By: Michael B. Harlin
Michael B. Harlin
Registration No. 43,658

PETITION TO MAKE SPECIAL UNDER 37 CFR § 1.102(c)

Mail Stop: PETITIONS
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant, through counsel, respectfully submits this Petition To Make Special requesting accelerated examination of the above-identified application under 37 CFR § 1.102(c). The basis of this petition is the Applicant's age, since the Applicant is 79 years of age. A copy of Applicant's Birth Certificate is enclosed.

Applicant respectfully requests that this Petition To Make Special be entered, the examination of the above-identified application be accelerated and that a Notice of Allowability with respect to all pending claims be issued. If there are questions or outstanding issues with respect to this Petition, please contact the undersigned at the telephone number below

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAY - 3 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Petteri Yla-Outinen	: DECISION ON REQUEST FOR
Patent Number	: 7583647	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/063,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **461** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/063,978	02/24/2005	Shinji Fujimoto	Q84648	8692

23373 7590 12/31/2007
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
SANDERS, KRIELLION ANTIONETTE

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
12/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

caj

Mailed : 12-31-07

In re Application of	:	DECISION ON
Shinji Fujimoto et al.	:	PETITION
Serial No. 11/063,978	:	

Filed: February 24,2005
For: INORGANIC FINE PARTICLE DISPERSION AND MANUFACTURING METHOD THEREOF AS WELL AS IMAGE-RECORDING MATERIAL

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed January 16, 2007.

On December 5, 2005, the Examiner issued a restriction requirement, requiring restriction between two groups of inventions. No election of species was required. Applicants elected claims 1-7 and 12-19 without traverse in a reply filed December 23, 2005. The Examiner subsequently issued actions on the merits on February 10, 2006 and July 24, 2006. In a response filed October 24, 2006, Applicants added new claims 22-25. These claims were held by the Examiner as independent or distinct from the invention originally examined in an action mailed January 16, 2007. Applicants traversed the requirement, which was repeated by the Examiner in an *Ex Parte Quayle* action mailed June 27, 2007.

On September 26, 2007, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

DECISION

In the Action mailed January 16, 2007, the Examiner stated that the newly submitted claims 22-25 contained species that were independent or distinct from the invention originally claimed and further stated that since Applicants received an action on the merits for the originally presented invention, this invention was constructively elected by original presentation for prosecution on the merits. Claims 22-25 were then withdrawn from consideration and not treated on the merits by the Examiner.

Petitioner argues that newly presented claims 22-25 depend from originally presented and examined claims 1 and 12. Petitioner further argues that these claims were designated generic claims by the Examiner in the January 16th action and included the species which the Examiner indicated were constructively elected. This argument has been considered and is persuasive.

The Examiner's holding of election by original presentation was improper because there had been no previous election of species requirement. The claims examined by the examiner in the first action on the merits included generic claims. A complete search of the claims originally examined should have included the additional species or the Examiner could have required an election of species prior to the first action on the merits. In addition, even if the election by original presentation was proper, claims 22-25 should have been treated on the merits as these claims include the species the Examiner considered constructively elected, even though additional species are recited.

Accordingly, the restriction requirement is found to be improper. Therefore, the petition to withdraw the restriction requirement is **GRANTED**. The application is being forwarded to the Examiner for consideration of non-elected claims 22-25.

JMStone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

COPY MAILED

FEB 08 2008

OFFICE OF PETITIONS

In re Application of :
Gary M. Everingham, et. al. :
Application No. 11/063,988 : ON PETITION
Filed: February 24, 2005 :
Attorney Docket No. 2005P02940US :

This is a decision on the petition under 37 CFR 1.137(b), filed on January 17, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed June 5, 2006. A Notice of Abandonment was mailed on January 8, 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.

Further, 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. Thus, in accordance with 37 CFR 1.34(a), the signature of Edward J. Stemberger appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if Mr. Stemberger 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 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) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $1,020 for a three (3) months extension of time submitted on January 17, 2007. However, 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 $1,020 extension of time was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application file is being referred to Technology Center Art Unit 3747, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Edward J. Stemberger
Manelli Denison & Selter, PLLC
2000 M Street, NW - Suite 700
Washington, DC 20036

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of

Ikeda, et al.

Application No. 11/063,999

Filed: February 24, 2005

Attorney Docket No. 100353-00220

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), June 27, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and the publication fee as required by the Notice of Allowance and Issue Fee Due and Notice of Allowability (the "Notices") mailed March 24, 2006. The Notices set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 25, 2006.

The corrected drawings filed June 27, 2006, are noted.

The Request for Continued Examination filed June 27, 2006, is also noted.

The application is being forwarded to Technology Center 2800, GAU 2824 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2041
AUSTRALIA

COPY MAILED
DEC 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 11/064,011	:	DECISION ON PETITION
Filed: 24 February, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. XMB078US	:	

This is a decision on the petition under 37 CFR 1.55(c), filed 7 September, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Australian Application Nos. PO 7991 and PO 8004, both filed on 15 July, 1997.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on 24 February, 2005, which is after November 29, 2000, and is a continuation of intermediate Application No. 10/893,380, filed on 19 July, 2004, which is a continuation of intermediate Application No. 10/307,348, filed on 2 December, 2002, which is a continuation of intermediate Application No. 09/113,122, filed on 10 July, 1998, which is within 12 months of 15 July, 1997 (the filing date of the foreign application to which benefit is now being claimed). On 7 September, 2006, an executed oath/declaration was received which identifies the foreign applications for which priority is claimed by application number, country and filing date. The required petition fee of $1,370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

It is noted that the issue fee was paid with the present petition, and that no certified copy of the foreign priority document for which priority is claimed is located in the application file. The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) must, in any event, be filed before the patent is granted. Further, MPEP 201.14(b) states, in pertinent part, that if the applicant fails to call attention to the fact that the certified copy is in the parent or related application and the examiner is aware of the fact that a claim for priority under 35 U.S.C. 119(a)-(d) or (f) was made in the parent application, the examiner should call applicant's attention to these facts in an Office action, so that if a patent issues on the later or reissue application, the priority data will appear in the patent. To satisfy the requirement of 37 CFR 1.55(a)(2) for a certified copy of the foreign application, applicant may simply identify the application containing the certified copy.

This application is being referred to Technology Center AU 2853 for further processing and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Attorney Douglas I. Wood at (571) 272-3231.

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
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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
11/064,011	02/24/2005	2853	1300	XMB078US	7	7	1

CONFIRMATION NO. 1564

CORRECTED FILING RECEIPT

OC000000021238994

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, NSW 2041
AUSTRALIA

Date Mailed: 11/15/2006

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)

Kia Silverbrook, Balmain, AUSTRALIA;

Assignment For Published Patent Application

Kia Silverbrook

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/893,380 07/19/2004 PAT 6,938,992
which is a CON of 10/307,348 12/02/2002 PAT 6,764,166
which is a CON of 09/113,122 07/10/1998 PAT 6,557,977

Foreign Applications

AUSTRALIA PO 7991 07/15/1997
AUSTRALIA PO 8004 07/15/1997

If Required, Foreign Filing License Granted: 03/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/064,011

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INK JET NOZZLE TO EJECT INK

Preliminary Class

347

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/06/07

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/064011** Patent No.: **7178903**

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: _____

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

SPE _____ Art Unit _____

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

ALIX YALE & RISTAS LLP
750 MAIN STREET
SUITE 1400
HARTFORD CT 06103

In re Application of	:	
Yongping GONG et al.	:	
Application No. 11/064,024	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. OMGMW/141/US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 06, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 02, 2008 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 03, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election (2) the petition fee of $1620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of June 02, 2008 has been accepted as having been unintentionally delayed.

The power of attorney filed by the assignee with the petition on July 06, 2009 has been accepted and made of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 3633 for appropriate action on the concurrently filed election.

Michelle R. Eason
Paralegal Specialist
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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Dennis S. Fernandez, Esq.
Fernandez & Associates, LLP
PO Box D
Menlo Park CA 94025-6204

MAY 12 2005

In re Application of: Gunn III et al
Application No. 11/064,035
Filed: February 24, 2005
Attorney Docket No. LUX-P001CIP

Decision on Petition

This is a decision on the petition filed under 37 C.F.R. § 1.48 (b) on April 27, 2005 to correct inventorship.

The petition is GRANTED.

37 C.F.R. § 1.48 Correction of inventorship in a patent application, other than a reissue application, pursuant to 35 U.S.C. 116.

(b) Nonprovisional application —fewer inventors due to amendment or cancellation of claims . If the correct inventors are named in a nonprovisional application, and the prosecution of the nonprovisional application results in the amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the nonprovisional application, an amendment must be filed requesting deletion of the name or names of the person or persons who are not inventors of the invention being claimed. If the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:

(1) A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor or inventor's being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and

(2) The processing fee set forth in § 1.17(i).

Petitioner has complied with all the above requirements by submitting the required documents in conjunction with the processing fee to correct inventorship.

The inventorship will be corrected to be: Lawrence C. Gunn III, Giovanni Capellini and Gianlorenzo Masini.

The application file will be forwarded to the Technical Support staff for Technology Center 2800 for entry of the correction of inventorship.

Inquiries regarding this decision should be directed to Michael Lebentritt at (571) 272-1873.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070621

DATE : June 25, 2007

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 6,723,986

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:

ROBERT KIM
SUPERVISORY PATENT EXAMINER

SPE: Robert Kim **Art Unit** 2881

Attorney Docket No. 10991598-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kernan et al.
Serial No. : 11/064,036
Filed : February 22, 2005
Confirmation No. 1896
Title : Apparatus For Manipulation of Ions and Methods of Making Apparatus

Art Unit : 2881
Examiner : JOHNSTON, PHILLIP A.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CORRECTION OF INVENTORSHIP

Applicants respectfully request a correction of inventorship in the above-captioned application by adding two inventors, J. Gerson Goldberg and James L. Bertsch.

In support of this request, the following documents are submitted herewith:

1. A statement from J. Gerson Goldberg and a statement from James L. Bertsch;
2. A declaration by all the actual inventors as required by 37 C.F.R. 1.63;
3. The processing fee set forth in 37 C.F.R. 1.17(i); and
4. A written consent of the assignee, Agilent Technologies, Inc.

Respectfully submitted,

Jeffrey T. Kernan et al.

By_____/Ping Hwung/_____
Ping F. Hwung
Reg. No. **44,164**

IP Administration
Agilent Technologies, Inc.
Legal Department, DL-429
P.O. Box 7599
Loveland, CO 80537-0599

Date: **June 4, 2007**
Phone: **(408) 553-3738**

Attorney Docket No. 10991598-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kernan et al.
Serial No. : 11/064,036
Filed : February 22, 2005
Confirmation No. 1896
Title : Apparatus For Manipulation of Ions and Methods of Making Apparatus

Art Unit : 2881
Examiner : JOHNSTON, PHILLIP A.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT BY J. GERSON GOLDBERG

I, J. Gerson Goldberg, state that I am an inventor for the above-captioned application. I was not named as an inventor when this application was filed, and this error occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

By _____
J. Gerson Goldberg

Date: 5/23/07
Phone: 650-838-0738

IP Administration
Agilent Technologies, Inc.
Legal Department, DL-429
P.O. Box 7599
Loveland, CO 80537-0599

Attorney Docket No. 10991598-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kernan et al.
Serial No. : 11/064,036
Filed : February 22, 2005
Confirmation No. 1896
Title : Apparatus For Manipulation of Ions and Methods of Making Apparatus

Art Unit : 2881
Examiner : JOHNSTON, PHILLIP A.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT BY JAMES L. BERTSCH

I, James L. Bertsch, state that I am an inventor for the above-captioned application. I was not named as an inventor when this application was filed, and this error occurred without deceptive intention on my part.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

By James L. Bertsch
James L. Bertsch

Date: 5/15/2007
Phone: (408) 553-7750

IP Administration
Agilent Technologies, Inc.
Legal Department, DL-429
P.O. Box 7599
Loveland, CO 80537-0599

Attorney Docket No. 10991598-3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Kernan et al.
Serial No. : 11/064,036
Filed : February 22, 2005
Confirmation No. 1896
Title : Apparatus For Manipulation of Ions and Methods of Making Apparatus

Art Unit : 2881
Examiner : JOHNSTON, PHILLIP A.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CONSENT TO INVENTORSHIP CORRECTION BY ASSIGNEE

Agilent Technologies, Inc., a corporation, is the assignee of the entire right, title, and interest of the above-captioned application by virtue of an assignment from the inventors. The assignment was recorded in a prior application (Serial No. 10/027,333; now U.S. Patent No. 6,723,986), to which this application claims priority under 35 U.S.C. §120, in the United States Patent and Trademark Office at Reel 012500, Frame 0643.

The assignee hereby consents to the correction of inventorship in this application by adding two inventors, J. Gerson Goldberg and James L. Bertsch.

The undersigned, whose title is supplied below, is authorized to act on behalf of the assignee.

Respectfully submitted,

By _____
Douglas A. Kundrat
Vice President, Assistant General Counsel
& Director of Intellectual Property
Legal Department

IP Administration
Agilent Technologies, Inc.
Legal Department, DL-429
P.O. Box 7599
Loveland, CO 80537-0599

Date: June 4, 2007
Phone: (408) 553-3052

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

FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
David J. Pilling	:	
Application No. 11/064,038	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW FROM
Attorney Docket No. 9145.0018-00	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 9, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Customer Number 22852 has been revoked by the assignee of the above application on July 20, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

This patent file is being referred to the Office of Data Management for processing into a patent.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: INTEGRATED DEVICE TECHNOLOGY, INC.
6024 SILVER CREEK VALLEY RD.
SAN JOSE, CA 95138

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of
Chen et al.
Application No. 11/064,047
Filed: February 23, 2005
Title: UNBALANCED DISC DETECTION AND ROTATING SPEED CONTROL IN DISC READING APPARATUS

ON PETITION

This is a decision on the petition filed May 9, 2005, requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of February 23, 2005 including page 3 of the specification.

The application was filed on February 23, 2005. However, on April 29, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of February 23, 2005 but page 3 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends page 3 of the specification was filed on February 23, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists " 16 pages of specification and 5 sheets of drawings".

Upon review of the record, page 3 of the specification, deposited on February 23, 2005, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on February 23, 2005, included 16 pages of specification, one sheet of which was subsequently misplaced in the United States Patent and Trademark Office. Unfortunately, the present petition must be dismissed because applicants failed to submit a copy of page 3 of the specification.

Accordingly, the petition is dismissed without prejudice. Any renewed petition must be filed within TWO MONTHS of the date of this decision and be accompanied by a copy of the one sheet of page 3 of the specification. This period is not extendable. See 37 CFR 1.181(f).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(703) 872-9306
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SALT LAKE CITY UT 84101

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NOV 21 2005

OFFICE OF PETITIONS

In re Application of :
Chen et al. :
Application No. 11/064,047 : ON PETITION
Filed: February 23, 2005 :
Title: UNBALANCED DISC DETECTION AND:
ROTATING SPEED CONTROL IN DISC :
READING APPARATUS :

This is a decision on the renewed petition filed August 15, 2005, requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of February 23, 2005 including page 3 of the specification.

The application was filed on February 23, 2005. However, on April 29, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of February 23, 2005 but page 3 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 16 pages of specification were filed including page 3 were filed on February 23, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists " 16 pages of specification". The petition is further accompanied by a copy of page 3 of the specification.

Applicant's postcard receipt is prima facie evidence that 16 pages of specification, including page 3 were received on February 23, 2005, but page 3 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 3 of the specification was received on February 23, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is **Granted**.

Page 3 of the specification supplied on August 15, 2005, will be used for processing and examination purposes.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **August 23, 2005** using the papers received on that date and the copy of page 3 of the specification supplied on August 15, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petition Attorney
Office of Petitions

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NOV 30 2005

OFFICE OF PETITIONS

In re Application of :
Chen et al. : CORRECTED DECISION
Application No. 11/064,047 : ON PETITION
Filed: February 23, 2005 :
Title: UNBALANCED DISC DETECTION AND :
ROTATING SPEED CONTROL IN DISC :
READING APPARATUS :

This is a decision which corrects the decision mailed on November 21, 2005 on the renewed petition filed August 15, 2005, requesting in effect, the "Notice of Omitted Item(s) in a Nonprovisional Application" ("Notice") be withdrawn, and the above-identified application be accorded a filing date of February 23, 2005 including page 3 of the specification.

The application was filed on February 23, 2005. However, on April 29, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of February 23, 2005 but page 3 of the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends 16 pages of specification were filed including page 3 were filed on February 23, 2005. In support, the petition is accompanied by a copy of applicants' return postcard which lists " 16 pages of specification". The petition is further accompanied by a copy of page 3 of the specification.

Applicant's postcard receipt is prima facie evidence that 16 pages of specification, including page 3 were received on February 23, 2005, but page 3 is not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that page 3 of the specification was received on February 23, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is **Granted**.

Page 3 of the specification supplied on August 15, 2005, will be

used for processing and examination purposes.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **February 23, 2005** using the papers received on that date and the copy of page 3 of the specification supplied on August 15, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Michael J. Wilskey	: DECISION ON REQUEST FOR
Patent Number	: 7581643	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/064,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1201** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

AGILENT TECHNOLOGIES, INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
P.O. BOX 7599
M/S DL429
LOVELAND CO 80537-0599

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of Kee Yean Ng, Shir Li Ng, and Wen Ya Ou Application No. 11/064,064 Filed: February 23, 2005 Attorney Docket No. 70040979-1 Title: LIGHT EMITTING DEVICE WITH ENHANCED ENCAPSULANT ADHESION USING SILOXANE MATERIAL AND METHOD FOR FABRICATING THE DEVICE	DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed May 23, 2005.

On February 23, 2005, the application was deposited, identifying Kee Yean Ng, Shir Li Ng, and Wen Ya Ou as joint inventors. A declaration was included on filing which was executed by the first and last named inventors. On March 21, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with eh filing fee the application search fee, and the application examination fee. 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 instant petition, Petitioner has also submitted the petition fee, the associated surcharge, the filing, search, and examination fees, the last known address of the non-singing inventor, a statement of facts, and a copy of a letter. The petition contains a certificate of mailing dated May 19, 2005.

Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shaneski

Paul Shaneski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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BOSTON, MA 02210-2206

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AUG 2 3 2006

OFFICE OF PETITIONS

In re Application of	:
Morgan et al.	:
Application No. 11/064,069	: DECISION ON PETITIONS
Filed: February 22, 2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. C1104.70073US02	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 30, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment. The delay in treating this petition is regretted.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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).

The petition does not comply with item (1).

A review of the "Cross-references to Related Applications" filed in the specification with the original application papers on February 22, 2005 reveals that applicant failed to indicate the relationship of the applications. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The claim for benefit in the specification filed February 22, 2005 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Finally, 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. The statement appearing in the petition varies from the required language.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Derek L. Woods at (571) 272-3232.

Frances Hicks
Lead Paralegal
Office of Petitions

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MAR 0 6 2007

OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
Morgan et al.	: UNDER 37 CFR § 1.78(a)(3)
Application No. 11/064069	: AND 37 CFR § 1.78(a)(6)
Filing or 371(c) Date: 02/22/2005	:
Attorney Docket No. C1104.70073US02	:

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment. The delay in treating this petition is regretted.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional 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 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. 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 2878 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Christina Tavera Donnell

Christina Donnell
Senior 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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/064,069	02/22/2005	2878	4580	C1104.70073US02	6	72	2

CONFIRMATION NO. 6200

CORRECTED FILING RECEIPT

OC000000022666984

23628
WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Date Mailed: 02/27/2007

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)

Frederick M. Morgan, Quincy, MA;
Ihor Lys, Milton, MA;

Assignment For Published Patent Application

Color Kinetics, Incorporated, Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number **23628**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/842,242 05/10/2004 ABN
and is a CIP of 09/213,581 12/17/1998 PAT 7,038,398
which claims benefit of 60/071,281 12/17/1997
and claims benefit of 60/068,792 12/24/1997
and claims benefit of 60/078,861 03/20/1998
and claims benefit of 60/079,285 03/25/1998
and claims benefit of 60/090,920 06/26/1998
and said 10/842,242 05/10/2004
is a CON of 09/675,419 09/29/2000 ABN
which claims benefit of 60/156,672 09/29/1999

Foreign Applications

If Required, Foreign Filing License Granted: 03/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/064,069

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Systems and methods for calibrating light output by light-emitting diodes

Preliminary Class

250

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100223

DATE : February 23, 2010

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7610135

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:

/Thomas G. Black/
Supervisory Patent Examiner, Art Unit 3661

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SALT LAKE CITY UT 84110

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AUG 26 2008

OFFICE OF PETITIONS

In re Application of
Allen L. Sinor, et al.
Application No. 11/064,108
Filed: February 22, 2005
Attorney Docket No. 1684-6250US (484-37447-US

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 August 25, 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 July 17, 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 3676 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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901 MAIN ST
SUITE 3100
DALLAS TX 75202

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Christof Baur, Robert J. Folaron,	:	
Adam Hartman, Philip C. Foster,	:	DECISION REFUSING
Jay C. Nelson, Richard E. Stallcup	:	STATUS UNDER § 1.47(a)
Application No. 11/064,127	:	
Filing Date: February 23, 2005	:	
Attorney Docket No. 34003.140	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 29, 2005.

The petition under 37 CFR 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventors. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s). The instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration does not contain the citizenship of non-signing inventor Stallcup.

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 concerning this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Christof Baur, Robert J. Folaron,	:	
Adam Hartman, Philip C. Foster, Jay	:	DECISION ACCORDING
C. Nelson, Richard E. Stallcup II	:	STATUS UNDER § 1.47(a)
Application No. 11/064,127	:	
Filing Date: February 23, 2005	:	
Attorney Docket No. 34003.140	:	

This is in response to the "RESPONSE TO DECISION REFUSING STATUS UNDER 37 C.F.R. § 1.47(a)", filed October 12, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on February 23, 2005, without a fully executed oath or declaration. Accordingly, the Office mailed a Notice to File Missing Parts of Nonprovisional Application on April 28, 2005, requiring the signature of inventor Foster together with the surcharge for its late filing. This Notice set an extendable period for reply of two months. On June 29, 2005, applicants filed a petition under 37 CFR 1.47(a), made timely by including a Certificate of Mailing dated June 27, 2005. However, the petition was dismissed in a decision mailed on August 11, 2005. Petitioner failed to submit a proper declaration because it did not contain the citizenship of inventor Stallcup II.

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).

With the instant petition, petitioner has submitted a proper declaration in compliance with 37 CFR 1.63. The other requirements for a grantable petition under 37 CFR 1.47(a) were fulfilled in the petition filed on June 29, 2005. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

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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PHILIP C FOSTER
329 ROLLING OAK DR
MURPHY TX 75094

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Christof Baur, Robert J. Folaron, Adam :
Hartman, Philip C. Foster, Jay C. :
Nelson, Richard E. Stallcup II :
Application No. 11/064,127 :
Filed: February 23, 2005
Title: Automated Charged Particle Beam
Device Probing and Operations

LETTER

Dear Mr. Foster:

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

Dave R. Hofman
Haynes and Boone LLP
901 Main St Ste 3100
Dallas, TX 75202-3789
972-739-8630

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OFFICE OF PETITIONS

In re Application of	:	
Wilson Wai-sum Chan et al	:	
Application No. 11/064,154	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. 023P2912	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 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 April 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2816 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

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STEPHEN P. MCNAMARA
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD CT 06905

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AUG 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Bolt and Plath	:	DECISION ACCORDING STATUS
Application No. 11/064,182	:	UNDER 37 CFR 1.47(a)
Filed: 23 February, 2005	:	
Atty Dckt No. 01925-P0222B	:	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 19 July, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, David Bolt, has refused to sign the declaration after having been sent a copy of the application papers. Specifically, petitioners have shown, via the statement of registered practitioner Wesley W. Whitmeyer, Jr., that a copy of the application was sent on two (2) occasions to the non-signing inventor. However, the inventor acknowledged failed to execute and return the declaration naming him as a joint inventor along with Victor A. Plath.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to Technology Center 3747 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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David Bolt
12974 120th Avenue
Grand Haven MI 49417

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AUG 1 4 2005

OFFICE OF PETITIONS

In re Application of
Bolt et al.
Application No. 11/064,182
Filed: 23 February, 2005
For: AIR SUSPENSION SYSTEM WITH SUPPLY AIR RESTRICTION VALVE

Dear Mr. Bolt:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

STEPHEN P. MCNAMARA
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 BEDFORD STREET
STAMFORD CT 06905

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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of
Hellerstein
Application No.: 11/064,197
Filed: February 23, 2005
Attorney Docket No. 416272006700

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed May 19, 2005, requesting that the above-identified application be accorded a filing date of February 22, 2005, instead of the presently accorded filing date, which is February 23, 2005.

Petitioner alleges that the application was deposited in Express Mail service with the U. S. Postal Service, on February 22, 2005. In support, petitioner provided a copy of the Express Mail label, receipt no. EV470627084US, showing a Date In of "2 22 05" and a postal date stamp of " FEB 22 2005" affixed thereto. The same Express Mail label number is referenced in the Utility Patent Application Transmittal filed with the application papers. Petitioner requests that the application be accorded a filing date of February 22, 2005.

The Office considers the date the paper or fee is shown to have been deposited as Express Mail to be the Date In on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as Express Mail with the U.S. Postal Service on February 22, 2005.

In view of the above, the petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **February 22, 2005.** OIPE will mail a filing receipt listing a filing date of February 22, 2005 for the above-identified application in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157

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OFFICE OF PETITIONS

In re Application of	:	
Jiang	:	
Application No. 11/064,200	:	DECISION ON PETITION
Filed: February 23, 2005	:	TO WITHDRAW
Attorney Docket No. RMWR.P018	:	FROM RECORD
	:	

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 24, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Courtney Staniford & Gregory, LLP has been revoked by the assignee of the patent application on June 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036-5339

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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APR 24 2008

In re Application of
Yue Jun Jiang
Application No. 11/064,200
Filed: February 23, 2005
Attorney Docket No.: 028327-00055

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2008 to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned on March 4, 2008, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed December 3, 2007, which set a three (3) month statutory period for reply. Petitioner filed an Issue Fee Transmittal on March 3, 2007 with credit card authorization form PTO-2038 however the amount authorized was insufficient to cover the issue fee, publication fee and advanced copies of the patent. Therein, as the issue fee was not timely paid, the application became abandoned. Accordingly, a Notice of Abandonment was sent via email notification on March 31, 2008.

Petitioner argues that the PTO-2038 authorized a charge in the amount of $1770.00 to cover the issue fee in the amount of $1440.00, $300.00 for the publication fee and $30.00 for 10 advance copies of the patent. Petitioner argues further that actually, since the applicant is a small entity the fees should have been a total of $1050.00; $720.00 for the issue fee, $300.00 for the publication fee and $30.00 for 10 advance copies of the patent.

At the outset, a review of the U.S. Patent and Trademark Office (Office) file, which is the official record, reveals that the PTO-2038 credit card authorization form only authorized $1170.00 and not $1770.00 and therefore was insufficient to cover the issue fee, publication fee and advanced copies of the patent. Furthermore, no evidence has been presented to show that the applicant has established itself as a small entity and thus, the fees required were $1770.00.

In view thereof, petitioner's deposit account no. 01-2300 has been debited in the amount of $1,370.00 to make up the difference between that which was paid by credit card for the issue fee and petition fee and no refund is due.

All other requirements having been met, this matter is being forwarded to the Publishing Division to be processed into a patent.

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

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Jackson & Co., LLP
6114 4 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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SEP 1 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Peter Furlong et al.	:	
Application No. 11/064,225	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. TC-04-11	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Seong-Kung Oh and the attorneys and/or agents of the firm Jackson & Co have been revoked by the assignee of the patent application on August 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 Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **3Com Corporation**
350 Campus Drive
Marlborough, MA 01752

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Jackson & Co., LLP
6114 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of	:	
Daniel Martin O'Keefee et al.	:	
Application No. 11/064,227	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. TC-04-03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Seong-Kun Oh and all attorneys/agents of record has been revoked by the assignee of the patent application on June 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: 3COM CORPORATION
350 CAMPUS DRIVE
MARLBOROUGH MA 01752-3064

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OFFICE OF PETITIONS

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

In re Application of
Carsten Giebeler, et al.
Application No. 11/064,230
Filed: February 23, 2005
Attorney Docket No. NL010627A

ON PETITION

This is a decision in response to the petition, filed March 20, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

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 Dicran Halajian appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, if Mr. Halajian desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 12, 2005. A Notice of Abandonment was mailed on April 21, 2006. On March 20, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2815 for consideration of the amendment filed March 20, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. 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.

cc: DICRAN HALAJIAN
THORNE & HALAJIAN, LLP
APPLIED TECHNOLOGY CENTER
111 WEST MAIN STREET
BAY SHORE, NY 11706

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JUL 18 2005

In re Application of	:	
Brian M. Cover et al.	:	
Serial No. 11/064,243	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO MAKE SPECIAL
For: ADJUSTABLE GOLF CLUB	:	

Applicant's petition, filed May 18, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Matthew B. Tropper
Greenberg Traurig
200 Park Avenue, MetLife Bldg.
New York, NY 10166

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SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Serge Willenegger	:	
Application No. 11/064,244	:	DECISION ON PETITION
Filed: February 22, 2005	:	
Attorney Docket No. 000186C1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 1, 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 timely obtained. Accordingly, the application became abandoned on March 2, 2009. A Notice of Abandonment was mailed July 28, 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) an adequate statement of unintentional delay.

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00, three- month extension of time fee submitted on September 28, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 2419 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

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SEP 25 2008

In re Application of Tuszynski et al. Application No. 11/064,247 Filed: February 23, 2005 Attorney Docket No. JT - 788	: : : : : :	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 30, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to HOWARD J. GREENWALD P.C. has been revoked by the assignee of the patent application on December 7, 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

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Jackson & Co., LLP
6114 4 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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SEP 1 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Edele O'Malley et al.	:	
Application No. 11/064,257	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 4003.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Seong-Kung Oh and the attorneys and/or agents of the firm Jackson & Co have been revoked by the assignee of the patent application on August 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 Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **3Com Corporation**
350 Campus Drive
Marlborough, MA 01752

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Jackson & Co., LLP
6114 4 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Daniel Martin O'Keefe et al.	:	
Application No. 11/064,258	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 4001.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Seong-Kung Oh and the attorneys and/or agents of the firm Jackson & Co have been revoked by the assignee of the patent application on June 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **3Com Corporation**
350 Campus Drive
Marlborough, MA 01752

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COVINGTON & BURLING, LLP
ATTN: PATENT DOCKETING
1201 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20004-2401

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Nicoletta Almirante, et. al.	:	
Application No. 61/064,275	:	ON PETITION
Filed: February 26, 2008	:	
Attorney Docket No. 032045.0002-US00	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 14, 2008, to revive the above-identified application.

The application became abandoned for failure to reply to the Notice to File Missing Parts of Provisional Application, mailed March 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 an Application Data Sheet (ADS) and the $50 surcharge; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing for further processing in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 13, 2009

TO SPE OF : ART UNIT 2887 - Steve S. Paik

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/064,276 Patent No.: 7,478,747 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should FIG. 2 be substituted?

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The Request for Certificate of Correction filed October 1, 2009 has been considered and approved.

/STEVEN S. PAIK/, SPE GAU 2887

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 13, 2009

TO SPE OF : ART UNIT 2887 - Steve S. Paik

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/064,276 Patent No.: 7,478,747 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should FIG. 2 be substituted?

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The Request for Certificate of Correction filed October 1, 2009 has been considered and approved.

/STEVEN S. PAIK/ GAU 2887

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of

ROSENTHAL, Arnon et al.
Application No. 11/064,309
Filed: February 22, 2005
Attorney Docket No. **514712002000**

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 23, 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 Catherine M. Polizzi 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.

There is an outstanding Office action mailed April 30, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ARNON ROSENTHAL**
150 NORMANDY LANE
WOODSIDE, CA 94062

cc: **DEBORAH MARTIN**
PFIZER INC.
EASTERN POINT RD
MS 8260-1611
GROTON, CT 06340

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/064,309	02/22/2005	Arnon Rosenthal	514712002000

CONFIRMATION NO. 9775

OC000000024942891

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Easer
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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PFIZER INC.
PATENT DEPARTMENT,
MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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JUL 2 1 2008

OFFICE OF PETITIONS

In re Application of

Rosenthal, et al. :

Application No. 11/064,309

: DECISION ON PETITION

Filed: February 22, 2005

:

Attorney Docket No. PC19493A

This is a decision on the petition under 37 CFR 1.137(b), filed June 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the restriction/election requirement mailed April 30, 2007, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on May 31, 2007. A Notice of Abandonment was mailed on December 11, 2007.

The election filed June 24, 2008, is noted.

The request for an extension of time within the fifth month is noted, but cannot be granted as the request was made outside the period set for reply to the restriction/election requirement. The extension of time was not necessary because the application was already abandoned when the request was made. The amount of $2,230.00 will be refunded to deposit account16-1445, in due course.

The application is being forwarded to Technology Center 1600, GAU 1646 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Morishita Law Firm, L.L.C.
Suite 850
3800 Howard Hughes Pkwy.
Las Vegas, NV 89109

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JUL 06 2006

OFFICE OF PETITIONS

In re Application of :
Mark Nicely :
Application No. 11/064,314 :
Filed: February 23, 2005 :
Attorney Docket No. :
WAGER05-01 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed June 15, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed May 19, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on July 20, 2005. A Notice of Abandonment was mailed January 27, 2006.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

This application is being referred to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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NIRMEL & ASSOCIATES
Suite 300
1629 K Street, NW
WASHINGTON DC 20006

JUL 22 2008

In re Application of: KARRAM	:
Appl. No.: 11/064,342	: DECISION ON PETITION to
Filed: February 23, 2005	: make SPECIAL under 37 CFR
For: Apparatus and Method for Incision-Free	: 1.102
Vaginal Prolapse Repair	:

This is a decision on the petition filed on February 23, 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d). The petition has recently come to the attention of the deciding official. The delay in consideration of this petition is regretted.

The petition to make the application special is DISMISSED.

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that a pre-examination search has been made in Class 600 subclass 37 and Class 606, subclass 119; c) a discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) and (c) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (b), (d) and (e).

MPEP § 708.02(VIII)(b) requires petitioner to state that all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse. Petitioner does not state that all claims are directed to a single invention, *or that applicant will make an election without traverse should the Office make a restriction requirement.* Petitioner merely states "all claims

are drawn to a single invention". Because the petition does not contain the required statement, it fails to meet the requirements of MPEP § 708.02(VIII)(b).

MPEP § 708.02(VIII)(d) requires petitioner to provide a copy of each of the references deemed most closely related to the claimed subject matter present. This requirement may also be met with the filing of an Information Disclosure Statement (IDS) listing the most closely related references. No such copies are present in the Image File Wrapper (IFW) system. No IDS filed of concurrent date is seen either. A copy of the search report is seen however this does not fulfill the requirement of submission of a copy of the most closely related prior art references. Furthermore, in excess of 15 references are listed in the petition as uncovered during the prior art search yet only three references are discussed. Thus it is not clear what applicant designates as the references most closely related.

Next, regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Applicant provides a discussion of three references alleged to be closely related, but does not point out the particular language of at least independent claims 6 10 and 13 that distinguishes from these references. Applicant's general allegation that "There is no teaching, or even a suggestion, in any of these references by which it would be obvious for a person of ordinary skill in the art to arrive at the claimed apparatus to be able to perform its intended function. " (claim 6, for example) does not satisfy the requirements of 37 CFR § 1.111 (c). To meet the requirements of 37 CFR § 1.111 (c), each independent claim must be compared with each reference, and the patentable novelty in each independent claim relative to each reference must be clearly pointed out. Because the petition does not point out the specific language in each independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up for action by the examiner in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide: i) a statement as required by MPEP § 708.02(VIII)(b), ii) a copy of each reference identified as most closely related to the subject matter encompassed by the claims or an IDS listing the most closely related references; and iii) a detailed discussion of each reference that

clearly points out the specific language in each independent claim that distinguishes over the reference as required under 37 CFR § 1.111(c) and discussed hereinabove.

Any inquiry regarding this decision should be directed to Jessica Harrison, Special Program Examiner, at (571) 272-4449.

Petition DISMISSED

J. Harrison, Special Program Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products

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JOSEPH S. TRIPOLI
PATENT OPERATIONS
THOMSON LICENSING INC.
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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APR 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Franck Thudor et al	:	
Application No. 11/064,350	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. PF040030	:	

This is a decision on the petition filed November 8, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed August 1, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 2, 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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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	:	
Nordemeyer, et al.	:	
Application No. 11/064,357	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 014939-002900US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 15, 2006.

The request is **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, "discontinuation of attorney/client relationship", does not meet any the conditions set forth in 37 CFR 10.40.

There is an outstanding Office action that was mailed on May 16, 2006, that requires a reply from the applicant.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY CA 94720

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:
Kirsch, et al.	: DECISION GRANTING
Application No. 11/064,393	: PETITION
Filed: February 23, 2005	:
Attorney Docket No. LOMAU.142C1	:

This is a decision on the petition filed May 12, 2005 (certificate of mailing date May 10, 2005) under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of February 22, 2005, rather than the presently accorded filing date of February 23, 2005.

Petitioners request the earlier filing date on the basis that the application was deposited in Express Mail service on February 22, 2005, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a printout of the United States Postal Service Track/Confirm - Intranet Item Inquiry - Domestic for the package associated with label no. EV465550113US that shows that the package was deposited with the USPS on February 22, 2005. The same Express Mail label number is found on the original application papers. In addition, a USPS date stamp of FEB 22 2005 is affixed to the copy of petitioners' Express Mail log referencing Express Mail Label No. EV465550113US.

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 May 12, 2005 (certificate of mailing date May 10, 2005), is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **February 22, 2005** and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center Art Unit 1615 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
David Vincent HELMLINGER, et al	:	
Application No. 11/064,396	:	DECISION ON PETITION
Filed: February 23, 2005	:	TO WITHDRAW
Attorney Docket No. PAPR-0003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Joseph R. Condo on behalf of all attorneys/agents of record associated with Customer No. 23377.

All attorneys/agents of record associated with Customer No. 23377 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed, all future communications from the Office will be directed to the first signing inventor at the address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed November 30, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID V. HELMLINGER
24 SHADOW OAK COURT
MOUNT LAUREL, NJ 08054

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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
11/064,396	02/23/2005	David Vincent Helmlinger	PAPR-0003

CONFIRMATION NO. 1766

POWER OF ATTORNEY NOTICE

23377
WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA, PA 19104-2891

OC000000027575806

Date Mailed: 01/07/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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MALLOY & MALLOY, P.A.
2800 S.W. Third Avenue
Historic Coral Way
Miami FL 33129

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of
Bill Cunningham
Application No. 11/064,407
Filed: February 23, 2005
Attorney Docket Number: 1.358.04

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of October 4, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on January 5, 2007. A Notice of Abandonment was mailed on April 17, 2007.

This petition is hereby **Granted**.

The office hereby acknowledges the receipt of the Amendment submitted with the instant petition.

This application is being referred to Art Unit 2612 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

Matar, Ahmad

Subject: FW: 11064415 - Cert. of Correction request

Paper No.: _____

DATE : 5/13/09

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11064415 Patent No.: 7436936 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

A. Matar
SPE

2614
Art Unit

5/21/09

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Roger Pitt
Kirkpatrick & Lockhart Nicholson Graham, LLP
599 Lexington Avenue
33rd Floor
New York, NY 10022-6030

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SEP 12 2006

OFFICE OF PETITIONS

In re Application of :

James Barbara :

Application No. 11/064,424 : DECISION ON PETITION
Filed: February 23, 2005 : TO WITHDRAW
Attorney Docket No. BABARAJB2 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, **copy of written instructions from the assignee**, do not meet any of the conditions set forth in 37 CFR 10.40 because the assignee has not intervened in accordance with 37 CFR 3.71..

The Office cannot withdraw just three of the attorney(s) and/or agent(s) of record because a Customer Number originally appointed them.

It is noted that a change of correspondence address was filed June 26, 2006 by Anthony H. Handal. Anthony H. Handal was not associated with Customer Number 00545, he does not have Power of Attorney in the instant application. Therefore the request to change the correspondence address cannot be entered.

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.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Anthony H. Handal, Esq.
Brown Rudnick Berlack Israels LLP
Seven Times Square
New York, NY 10036

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JJGJR.: 02-06

Paper No: __

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of
Angelo, et al. :
Application No. 11/064,438 : ON PETITION
Filed: 23 February, 2005 :
Attorney Docket No.: 103488-0038 :

This is a decision on the papers submitted and considered as a petition filed on 16 November, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47 is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 14 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 16 November, 2005, Petitioner David J. Powsner (Reg. No. 31,868) filed, *inter alia*, the instant petition, along with an oath/declaration averred to have signed by named co-inventors Robert F. Angelo, Amir Azmi, Colin P. Britton, Noah W. Kaufman, Ashok Kumar and Darren Raybourn (behalf of themselves and) the named non-signing inventor Chandra Bajpai (Mr. Bajpai), and an averment that the oath or declaration was transmitted to Mr. Bajpai with a copy of the entire application (description, claims, abstract and drawings) and a copy of the transmittal letter asking that Mr. Bajpai not separate the oath/declaration from the balance of the application transmitted to him (and so evidencing that the entire application (description, claims, abstract, drawings) was transmitted to the non-signing inventor Mr. Bajpai), and that as of that petition Mr. Bajpai had failed to sign and submit the oath/declaration for filing–however, what Petitioner fails to address is the fact that the oath/declaration submitted contains the signature of neither Robert F. Angelo nor Noah W. Kaufman.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;

> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that

the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should

> be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands fails to satisfy the requirement that if inventors fail to sign evidence must be presented demonstating that they have been presented with a copy of the entire application and requested to sign the oath/declaration–this has not been addressed as to Robert F. Angelo nor Noah W. Kaufman.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 06-06

Paper No: __

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JUN 0 5 2006

OFFICE OF PETITIONS

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

In re Application of
Angelo, et al. :
Application No. 11/064,438 : ON PETITION
Filed: 23 February, 2005 :
Attorney Docket No.: 103488-0038 :

This is a decision on the papers submitted and considered as a petition filed on 5 May, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47 is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 14 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 16 November, 2005, Petitioner David J. Powsner (Reg. No. 31,868) filed, *inter alia*, the instant petition, along with an oath/declaration averred to have signed by named co-inventors Robert F. Angelo, Amir Azmi, Colin P. Britton, Noah W. Kaufman, Ashok Kumar and Darren Raybourn (behalf of themselves and) the named non-signing inventor Chandra Bajpai (Mr. Bajpai), and an averment that the oath or declaration was transmitted to Mr. Bajpai with a copy of the entire application (description, claims, abstract and drawings) and a copy of the transmittal letter asking that Mr. Bajpai not

separate the oath/declaration from the balance of the application transmitted to him (and so evidencing that the entire application (description, claims, abstract, drawings) was transmitted to the non-signing inventor Mr. Bajpai), and that as of that petition Mr. Bajpai had failed to sign and submit the oath/declaration for filing–however, because it appeared that co-inventors Robert F. Angelo nor Noah W. Kaufman had not signed the oath/declaration, the petition was dismissed on 2 March, 2006;

- the deficiency appears to have been overcome with the instant petition.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJR.: 06-06

Paper No: __

CHANDRA BAJPAI
21 PAMELA ROAD
NATICK, MA 01760

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JUN 0 5 2006
OFFICE OF PETITIONS

In re Application of
Angelo, et al. :
Application No. 11/064,438 : COMMUNICATION
Filed: 23 February, 2005 :
Attorney Docket No.: 103488-0038 :

Dear Chandra Bajpai:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH, CA 92660

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AUG 18 2008

In re Application of	:	
Milton B. **SILVERMAN**	:	
Application No. 11/064,451	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. SILVER.M-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 July 23, 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 Gene Scott on behalf of all attorneys of record associated with Customer Number 22197.

All attorneys of record associated with Customer Number 22197 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MILTON SILVERMAN
901 S. GUNTHER STREET
SANTA ANA, CA 92704

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of	:	
Bales, et al.	: DECISION	
Application No.: 11/064,520	:	
Filed: February 24, 2005	:	
Docket No.: 06530.0290-01	:	
For: RADIAL JAW BIOPSY	:	
FORCEPS	:	

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JAN 13 2006
OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175(b)(1), filed November 28, 2005.

The provisions of 37 CFR 1.183 provide that "[i]n 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."

The final Office action mailed July 28, 2005 required the submission of a supplemental oath or declaration in accordance with 37 CFR 1.175(b)(1). Pursuant to the provisions of 37 CFR 1.183, petitioners seek to waive the requirements of 37 CFR 1.175(b)(1) because the inventor(s) refuse to execute the supplemental declaration.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that the non-signing inventors sign the Rule 1.175(b)(1) declaration, petitioners must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners have established that bona fide effort has been made to procure the signature of the inventor(s) upon the declaration, but that the inventor(s) refuses to execute the declaration. Under the circumstances, it is concluded that petitioners have demonstrated that this is an extraordinary situation requiring waiver of the rules.

Nevertheless, petitioners have failed to submit a supplemental oath or declaration as required by the final Office action. The supplemental oath or declaration should be executed on behalf of the inventors by one with requisite authority.

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 1.183." This is not a final agency decision.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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 regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

COPY MAILED
JAN 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Bales, et al.	:	
Application No.: 11/064,520	:	DECISION
Filed: February 24, 2005	:	
Docket No.: 06530.0290-01	:	
For: RADIAL JAW BIOPSY FORCEPS	:	

This decision is in response to the declaration submitted February 24, 2005.

The declaration is being treated as a petition under 37 CFR 1.47. The required petition fee of $200.00 has been charged to petitioners' deposit account.

The declaration submitted February 24, 2005 is a copy of the declaration submitted in U.S. Reissue App. No. 10/074,012. In accordance with 37 CFR 1.63(d)(3), a copy of the decision granting a petition to accord § 1.47 status to the prior application (U.S. Reissue App. 10/074,012) was submitted herewith.

A review of the official application file reveals that the instant application is a continuation of reissue application 10/074,012 and that said application was accorded Rule 47 status on July 25, 2003.

In accordance with 37 CFR 1.63(d)(3), 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); and (ii) if one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another

application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

A copy of the declaration and decision according Rule 47 status in application No. 10/074,012 have been placed in the official application file of application No. 11/064,520.

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 continuation application.

This application is being returned to the Office of Initial Patent Examination for further processing.

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of	:	
Bales, et al.	:	DECISION
Application No.: 11/064,520	:	
Filed: February 24, 2005	:	
Docket No.: 06530.0290-01	:	
For: RADIAL JAW BIOPSY	:	
FORCEPS	:	

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MAR 17 2006
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This decision is in response to the renewed petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.175(b)(1), filed January 26, 2006.

The provisions of 37 CFR 1.183 provide that "[i]n 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."

The final Office action mailed July 28, 2005 required the submission of a supplemental oath or declaration in accordance with 37 CFR 1.175(b)(1). Pursuant to the provisions of 37 CFR 1.183, petitioners seek to waive the requirements of 37 CFR 1.175(b)(1) because the inventor(s) refuse to execute the supplemental declaration.

In order for a petition under 37 CFR 1.183 to be granted to waive this requirement that the non-signing inventors sign the Rule 1.175(b)(1) declaration, petitioners must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioners have established that bona fide effort has been made to procure the signature of the inventor(s) upon the declaration, but that the inventor(s) refuses to execute the declaration. Under the circumstances, it is concluded that petitioners have demonstrated that this is an extraordinary situation requiring waiver of the rules.

Petitioners have further submitted a supplemental declaration executed by one authorized to act on behalf of the assignee.

Accordingly, the requirements of 37 CFR 1.175(b)(1) are hereby waived under the provisions of 37 CFR 1.183.

Thus, the petition is **GRANTED**.

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
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Alexandria, VA 22313-1450
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WEINGARTEN SCHURGIN GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Shinichi Fujisawa et al :
Application No. 11/064,522 :
Filed: February 23, 2005 :
Attorney Docket No. AK-489XX

ON PETITION

This is a decision on the petition, filed January 23, 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 January 14, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2627 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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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Nelson Mullins Riley & Scarborough LLP
IP Department
100 North Tryon Street
42nd Floor
Charlotte, NC 28202-4000

Mail Date: 04/30/2010

Applicant	: Philip A. Robertson	: DECISION ON REQUEST FOR
Patent Number	: 7607576	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/064,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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JUN 29 2007

OFFICE OF PETITIONS

In re Application of

KREMPEL, Benjamin J. et al.
Application No. 11/064,546
Filed: February 23, 2005
Attorney Docket No. **544862000300**

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 06, 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 Rick Shoop on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **BENJAMIN J. KREMPEL**
326 PARNASSUS AVENUE, #4
SAN FRANCISCO, CA 94117

cc: **RON JACOBS, PH.D.**
(LUMAN INTELLECTUAL PROPERTY SERVICES)
2345 YALE STREET, SECOND FLOOR
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/064,546	02/23/2005	Benjamin J. Krempel	544862000300

CONFIRMATION NO. 9797

OC000000024455326

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 06/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/06/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED

JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
LOGAN et al.	:	
Application No. 11/064,551	:	DECISION ON PETITION
Filed: February 24, 2005	:	
Attorney Docket No. 004974.01121	:	

This is a decision on the petition, filed July 2, 2007, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application was held abandoned for failure to reply to the Non-final Office action mailed January 13, 2006, which set a three (3) month shortened statutory period for reply. In response, applicants filed a Notice of Appeal on July 13, 2006 along with a payment for a three (3) month extension of time. Subsequently a Request for Continued Examination (RCE) was filed February 1, 2007, along with a payment for a five (5) month extension of time. A Notice of Abandonment was mailed by the examiner on May 2, 2007 stating that both the Notice of Appeal and RCE were improper as the claims were rejected only once, noting that pending claims in the instant application were different from the claims in the parent application.

PETITION

Petitioner asserts that the Notice of Appeal filed July 13, 2006, was indeed proper as the applicant has been twice denied a patent, citing Ex Parte Lemoine, 46 U.S.P.Q.2d 1420, 1423 (Bd. Pat. App. & Inter. 1994) ("so long as the applicant has twice been denied a patent, an appeal may be filed").

DECISION

The basis for the decision herein is the sole issue of whether an appeal may be made to the Board of Patent Appeals and Interferences after the claims have been rejected in the fact pattern presented here. No opinion is expressed herein with regards to the underlying restriction requirement since it is not within the boundaries of this decision.

The instant application is a continuation of Application 10/316,124 (parent) in which a non-final rejection of claims therein was mailed October 26, 2004 (See items 1 – 4, listed under "Statement of Facts" (Statement) included in the instant petition). While the instant application has been styled as a "continuation" of the parent application, the claims in the instant application pertain to an invention that is distinct from that in the parent application (See items 3 and 7 in the Statement, as well the "note" in item 11). This application is accordingly a divisional application.

35 U.S.C. 101 states "Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title". Clearly the statute states in the singular that an inventor "may obtain a patent" for an invention. Since the inventions in the instant application and its parent are distinct, any patent that could result therefrom would be distinct as well. A single non-final rejection in the instant application and a separate single non-final rejection of a different invention in its parent application do not place the petitioners in the position wherein they have been twice denied a patent to the same invention, thereby rendering the Notice of Appeal filed July 13, 2006 improper. As July 13, 2006, was the last day that a response could be filed to the outstanding office action of January 13, 2006, the application became abandoned by operation of law on July 14, 2006.

As stated in 37 CFR 41.31(a), "Every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in § 41.20(b)(1) within the time period provided under §1.134 of this title for reply." See MPEP § 1204. The parent application herein was subjected to a restriction requirement and the invention elected in response thereto was rejected once. The instant divisional application was filed and the newly elected invention in the divisional application was rejected once. No claim for the same invention has been rejected twice. Accordingly a notice of appeal is not proper in this case.

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 Ramesh Krishnamurthy at (571) 272-4914.

Anthony Knight
Supervisor
Office of Petitions

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OFFICE OF PETITIONS

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

In re Application of :
Bogen, et al. :
Application No. 11/064,574 : ON APPLICATION FOR
Filed: August 24, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. IN06168US01 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT ("PTA")UNDER 37 C.F.R. § 1.705(b), filed August 18, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred and six (1,106) days[1], not four hundred sixty-seven (467) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

[1] This calculation is based on a projected issuance date of November 24, 2009.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

[2] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

Mail Date: 06/28/2010

Applicant	: Stephane L. Bogen	: DECISION ON REQUEST FOR
Patent Number	: 7635694	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/064,574	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1073** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TECHNOLOGY CENTER 3600

DECKER, JONES, MCMACKIN, MCCLANE,
HALL & BATES, P.C.
Burnett Plaza 2000
801 Cherry Street, Unit #46
Fort Worth, TX 76102-6836

In re application of	:	**DECISION ON PETITION**
Robert B. Lomerson SR., et al.	:	**TO MAKE SPECIAL**
Application No. 11/064,579	:	**(APPLICANT'S AGE)**
Filed: February 24, 2005	:	
For: TIDAL POWER GENERATION		

This is a decision on the petition submitted on February 24, 2005, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration for Mr. Lomerson SR., indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6611

SNM/pav: 09/09/05

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Gregory F. Grohoski	: DECISION ON REQUEST FOR
Patent Number	: 7620821	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/064,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
RESEARCH TRIANGLE PARK, NC 27709

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OFFICE OF PETITIONS

In re Application of :
SCARBOROUGH, Dane :
Application No. 11/064,599 : DECISION GRANTING PETITION
Filed: February 23, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **LEVL112 (755)** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 7, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 12, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2859 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Kulvir Singh Bhogal	: DECISION ON REQUEST FOR
Patent Number	: 7587596	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/064,623	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 368
RIDGEFIELD CT 06877

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OFFICE OF PETITIONS

In re Application of	:	
Zierenberg, et al.	:	
Application No. 11/064,628	:	DECISION ON PETITION
Filed: February 24, 2005	:	
Attorney Docket No. 1/1647	:	

This is a decision on the "PETITION PURSUANT TO 37 CFR 1.53(e)", filed August 29, 2005, to accord the above-identified application a filing date of February 24, 2005, with 13 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on February 24, 2005. However, on June 30, 2005, the Initial Patent Examination Division mailed Applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings. In addition, the oath or declaration was missing.

In response, Applicant filed the instant petition. Accompanying the petition was a copy of 13 drawing sheets. Applicant maintains that the application as originally filed included 13 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "Drawings (13 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of February 24, 2005, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $400 petition fee has been refunded to Deposit Account No. 02-2955.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of February 24, 2005, using the application papers received in the Office on that date and the 13 pages of drawings as resupplied on petition filed August 29, 2005, and for indication in Office records that 13 sheets of drawings were present on filing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
7700 FORSYTH BOULEVARD
SUITE 1800
ST. LOUIS, MO 63105

Mail Date: 07/15/2010

Applicant	: Charles Kurt Artinger	: DECISION ON REQUEST FOR
Patent Number	: 7668739	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/064,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY NY 11797

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OFFICE OF PETITIONS

In re Application of	:	
Gopalakrishnan, et al.	:	
Application No. 11/064,643	:	DECISION
Filed: 24 February, 2005	:	
Attorney Docket No. YOR919980152US2	:	
(8728-130		

This is a decision on the petition filed on 26 February, 2009, supplemented on 25 March, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 26 February, 2008, with reply due absent extension of time on or before 26 May, 2008.

The application went abandoned by operation of law after midnight 26 May, 2008.

The Office mailed the Notice of Abandonment on 12 February, 2009.

On 26 February, 2009, Petitioner filed, inter alia, an amendment as a reply, a petition, supplemented on 25 March, 2009, pursuant to 37 C.F.R. §1.181; averred non-receipt; submitted a due-date docket/calendar, a statement of non-receipt, search and non-discovery, description of the docketing system and its reliability and a docket-sheet/docket-sheet equivalent for the application in an effort to make a showing consistent with in the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

[1] *See*: MPEP §711.03(c) (I)(A).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner's submissions appear to have satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 12 February, 2009, Notice of Abandonment is **vacated**.

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

The instant application is released to the Technology Center/AU 2626 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Aaron Partridge	: DECISION ON REQUEST FOR
Patent Number	: 7629657	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/064,658	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: 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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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Sakai et al.	:	
Application Number: 11/064699	:	DECISION ON PETITION
Filing Date: 02/24/2005	:	
Attorney Docket Number:	:	
44471/313121	:	

This is a decision on the "PETITION TO SUSPEND RULE UNDER 37 CFR § 1.183", filed on January 18, 2008, requesting waiver of the rule under 37 CFR 1.10(d). The petition is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of February 24, 2005, rather than the presently accorded filing date of February 23, 2005.

Petitioners allege that the application was deposited in Express Mail service on February 24, 2005. In support, petitioners have provided a copy of Express Mail Label No. EV334679497US (the same Express Mail number found on the itemized Utility Application Transmittal Sheet accompanying the original application papers located in the official file). Although the Express Mail label bears a "date-in" of "2/23/05" the label also contains an Official USPS postmark dated February 24, 2005.

The Official USPS postmark on the Express Mail label is considered "other official notation by the USPS relied upon to show the date of deposit" in accordance with 37 CFR 1.10(c).

In view of the above, the correct date of deposit in Express Mail is February 24, 2005.

The undersigned has consulted with the examiner, Kiran Patel. The examiner has stated that there are no prior art objections to correction of the filing date.

In view of the above, the petition is granted. No petition fee is necessary, and the fee paid with the petition will be credited to counsel's deposit account, as authorized in the petition.

The application is being referred to the Office of Patent Application Processing for correction of the filing date to **February 24, 2005**, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Straub & Pokotylo
620 Tinton Avenue
Bldg, B, 2nd Floor
New Jersey, NJ 07724-3260

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OFFICE OF PETITIONS

In re Application of :
Harris : DECISION ON PETITION
Application No. 11/064,715 :
Filed: February 22, 2005 :
For: Dyna-4 (39907.00003.UTL1) :

This is a decision on the petition under 37 CFR 1.137(b), filed August 10, 2006, to revive the above-identified application.

Review of the record indicates that the instant application is not abandoned and is in fact under non-final rejection. Accordingly, the instant petition is hereby **DISMISSED AS MOOT**.

The instant petition fails to satisfy requirement (1) set forth above. Petitioners have failed to submit a proper reply to the Office communication.

This application is being referring to Technology Center 2600.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JJGJR.: 08-05

Paper No: __

GWILYM ATTWELL
COZEN O'CONNOR
1900 MARKET STREET
PHILADELPHIA PA 19103

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AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Morris, et al.	:	
Application No. 11/064,736	:	ON PETITION
Filed: 23 February, 2005	:	
Attorney Docket No. CHIR00550101 (23350.0002)	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 7 June, 2005.

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2005, without, *inter alia*, a fully executed oath/declaration;
- on 9 May, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- on 7 June, 2005, Petitioner Gwilym J.O. Attwell (Reg. No. 45,449) filed the a declaration as to the unavailable inventor, along with an oath/declaration containing the signatures of named co-inventors Malandro, Lai, Tse and Fattaey, but without the signature of named co-inventor

David W. Morris (Mr. Morris), and an averment that the entire application was presented to Mr. Morris, along with a copy of the transmittal letter evidencing that the entire application was transmitted to Mr. Morris at his last known/most current address, and evidence of a proprietary interest and.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(b)**.

As provided under 37 C.F.R. §1.47(b), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAWYER LAW GROUP
P.O. BOX 51418
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Hansen et al.	:	
Application No. 11/064,737	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No.	:	
SVL920010033US2/2144D		

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc:

JOSEPH A. SAWYER, JR.
2465 EAST BAYSHORE ROAD, SUITE 406
PALO ALTO, CA 94303

DATE 9-24-07 APPLICATION NUMBER 11/064757

DOC CODE Pet Dec-TC DOC DATE 9/25/07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH, NJ 07033-0530

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OFFICE OF PETITIONS

In re Application of	:	
F. George Njoroge et al	:	
Application No. 11/064,757	:	DECISION ON PETITION
Filed: February 24, 2005	:	
Attorney Docket No. IN06140US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 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 June 26, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 27, 2006. A Notice of Abandonment was mailed on January 24, 2007.

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 amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 26, 2006 is accepted as being unintentionally delayed.

This application is being referred to Technology Center AU 1626 for appropriate action in the normal course of business on the reply received February 8, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

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DEC 0 8 2006

OFFICE OF PETITIONS

COOLEY GODWARD KRONISH LLP
THE BROWN BUILDING
875 15TH STREET, NW
SUITE 800
WASHINGTON DC 20005-2221

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CANCELLED
DEC 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Vincent K. IV Jones, et al.	:	
Application No. 11/064,761	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. PATH-002/02US 307105-2027	:	FROM RECORD

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 19, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office [.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, " the power of attorney was submitted in error, the Undersigned are not authorized to prosecute the subject application", does not meet any of the conditions set forth in 37 CFR 10.40.

Furthermore the petitioner should provide further information as to the reason why petitioner is not authorized to prosecute the application and why the power of attorney was submitted in error. If the power of attorney was submitted in error then the assignee should submit a new correct power.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUN 25 2007

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Vincent K. Jones, IV, et al.	:	
Application No. 11/064.761	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. 021245-003010US	:	FROM RECORD
	:	

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 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 Phillip H. Albert on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. All future communications from the Office will be directed to the assignee of the entire interest under 37 C.F.R. §3.71 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARIGO NETWORKS, INC.
900 ARASTRADERO ROAD
PALO ALTO, CA 94304

cc: HIMANCHU S. AMIN
AMIN, TUROCY & CALVIN, LLP
NATIONAL CITY CENTER
24TH FLOOR
CLEVELAND, OH 44114

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
11/064,761	02/22/2005	Vincent K. Jones IV	021245-003010US

CONFIRMATION NO. 9487

OC000000024460067

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/04/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/064,761	02/22/2005	Vincent K. Jones IV	021245-003010US

CONFIRMATION NO. 9487

OC000000024459625

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/21/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2007.

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.

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
11/064,761	02/22/2005	Vincent K. Jones IV	PATH-002/02US 307105-2027

CONFIRMATION NO. 9487

OC000000024459570

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
WASHINGTON, DC 20036-2402

Date Mailed: 06/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2007.

- 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
NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/064,761	02/22/2005	Vincent K. Jones IV	PATH-002/02US 307105-2027

CONFIRMATION NO. 9487

OC000000024459570

58249
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
WASHINGTON, DC 20036-2402

Date Mailed: 06/21/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/05/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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Maginot, Moore & Beck
Bank One Tower
Suite 3000
111 Monument Circle
Indianapolis IN 46204

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OFFICE OF PETITIONS

In re Application of
Gabl
Application No.: 11/064,762
Filed: February 24, 2005
Attorney Docket No. 1890-0198
For: HIGH-FREQUENCY SWITCH

: DECISION GRANTING
: PETITION

This is a decision on the petition under 37 CFR 1.10(c), filed April 14, 2005 (certificate of mailing date April 12, 2005), requesting that the above-identified application be accorded a filing date of February 23, 2005, instead of the presently accorded filing date, which is February 24, 2005.

Petitioner alleges that the application was deposited in Express Mail service with the U. S. Postal Service, on February 23, 2005. In support, petitioner provided a copy of the Express Mail label, receipt no. EV505540598US, showing a Date In of "2 23 05". The same Express Mail label number is referenced in the Patent Application Transmittal Letter filed with the application papers. Petitioner requests that the application be accorded a filing date of February 23, 2005.

The Office considers the date the paper or fee is shown to have been deposited as Express Mail to be the Date In on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as Express Mail with the U.S. Postal Service on February 23, 2005.

In view of the above, the petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **February 23, 2005.** OIPE will mail a filing receipt listing a filing date of February 23, 2005 for the above-identified application in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/064,771	02/16/2005	3746	0.00	HODG1.002CP1	40	4	1

CONFIRMATION NO. 9497

CORRECTED FILING RECEIPT

OC000000015980265

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 05/12/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Peter Joseph Ayre, Residence Not Provided;
Geoffrey Douglas Tansley, Residence Not Provided;
Peter Andrew Watterson, Residence Not Provided;
John Campbell Woodward, Residence Not Provided;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/980,682 08/15/2002 PAT 6,866,625
which is a 371 of PCT/AU00/00355 04/20/2000

Foreign Applications

AUSTRALIA PP 9959 04/23/1999

If Required, Foreign Filing License Granted: 03/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/064,771

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Rotary blood pump and control system therefor

Preliminary Class

417

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

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OFFICE OF PETITIONS

In re Application of :
Jean-Claude Mamou et al :
Application No. 11/064,772 : ON PETITION
Filed: February 24, 2005 :
Attorney Docket No. SVL920050578US1

This is a decision on the petition, filed October 28, 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 27, 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 2451 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 – 6TH STREET, NW
WASHINGTON DC 20001

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SEP 2 5 2008

In re Application of	:	
Michael MCGRATH	:	
Application No. 11/064,781	:	DECISION ON PETITION
Filed: February 22, 2005	:	TO WITHDRAW
Attorney Docket No. PATH-002/02US 307105-2027	:	FROM RECORD

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 3, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted above have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: GLOBAL PATENT GROUP, LLC
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS, MO 63131

Paper No.: _____

DATE : 5/18/09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 11064784 Patent No.: 7507682 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
703-756-1574

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

1794
Art Unit

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,375,078 B2
Inventor(s) : Feng
Issued : May 20, 2008
Title : HETEROCYCLIC SELF-IMMOLATIVE LINKERS AND CONJUGATES
Docket No. : 39766-0143

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

RoChaun Johnson
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext 119** or (703) 305-8309

James Fox
135 Commonwealth Dr
Menlo Park, California
94025

RMJ

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www.uspto.gov

GOODWIN PROCTER LLP
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105

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OFFICE OF PETITIONS

In re Patent No. 7,375,078 B2 :
Issue Date: May 20, 2008 :
Application No. 11/064,785 :
Filed: February 22, 2005 :
Attorney Docket No. 39766-0143 A :

DECISION ON PETITION

This is a decision on the Request for Certificate of Correction for Office Mistake (37 C.F.R. §1.322), filed September 26, 2008, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct name of assignee. The Request has been treated as a petition under 37 CFR 3.81. A completed Certificate of Correction form accompanied the petition.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the name of the assignee identified thereon from "Genetech, Inc., South San Francisco, CA (US)" to:

--Seattle Genetics, Inc., Bothell, WA (US)--.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The petition was accompanied deposit account authorization to charge required fees. As such, the requisite $100.00 fee (Fee Code 1811), as set forth under in 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been charged as authorized in the petition. A review of the PART B –FEES TRANSMITTAL, submitted with the Issue Fee on April 1, 2008, reveals that Genetech, Inc., was erroneously identified as the assignee in Item 3 of the Transmittal. Office assignment records, however, are consistent with the requested correction. Accordingly, as the petition complies with the provisions of 37 CFR

3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Certificate of Correction form filed with the present petition.

Inquiries related to this communication should be directed to Brian W. Brown at (571) 272-5338.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

The matter is being referred to the Certificate of Corrections Branch for processing of a Certificate of Correction in US Patent 7,375,078 B2.

Brian W. Brown
Petitions Examiner
Office of Petitions

PATENTS
Attorney Docket No. GNE-0143

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	**U.S. Patent No.:**	**7,375,078 B2**
	Application No.:	**11/064,785**
	Issue Date:	**May 20, 2008**
	Inventor:	**Bainian FENG**

FILED VIA EFS

REQUEST FOR CERTIFICATE OF CORRECTION FOR OFFICE MISTAKE (37 C.F.R. §1.322)

Commissioner for Patents -- **CERTIFICATE OF CORRECTION BRANCH**
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Patentee hereby requests a Certificate of Correction for U.S. Patent 7,373,078 B2 for the reason that U.S. Patent 7,375,078 B2 as issued does not name the correct assignee. **Seattle Genetics, Inc.** was the assignee of record prior to the issuance of the patent; however, the patent incorrectly names **Genentech, Inc.** as assignee.

The assignment assigning the interest in U.S. Patent Application 11/064,785 of assignor Genentech, Inc. to the assignee, Seattle Genetics, Inc. was submitted for recordation as set forth in 37 C.F.R. § 3.11 before the issuance of the patent, U.S. Patent 7,375,078. This assignment was recorded at reel 020668 and frame 0359 on March 18, 2008. U.S. Patent 7,375,078 B2 issued on May 20, 2008.

Included with this request is a request for a Certificate of Correction under 37 C.F.R. § 1.323 (submitted herewith is a completed Form PTO-1050 containing the requested correction).

The Office is authorized to charge all necessary fees, including the fee set forth in 37 C.F.R. § 1.20(a) and the processing fee set forth in 37 C.F.R. § 1.17(i), and any additional fees which may be required as a result of this communication, from Deposit Account **50-4634**, referencing Attorney's Docket No. **GNE-0143,** or credit any overpayment to the same Deposit Account.

Respectfully submitted,

Dated: September 26, 2008

By: _____
James A. Fox (Reg. No. 38,455)

GOODWIN PROCTER LLP
CUSTOMER NO. 77845
135 Commonwealth Drive
Menlo Park, California 94025
Telephone: (650) 752-3100
Facsimile: (650) 853-1038

03/11/2009 CKHLOK 00000002 504634 7375078
01 FC:1811 100.00 DA
02 FC:1464 130.00 DA

LIBC/3361721.1

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DUKE W. YEE
P.O. BOX 802333
YEE & ASSOCIATES, P.C.
DALLAS TX 75380

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MAY 01 2008

OFFICE OF PETITIONS

In re Application of	:	
Mamou et al.	:	
Application No. 11/064786	:	
Filing or 371(c) Date: 02/24/2005	:	
Attorney Docket Number:	:	
SVL920050586US1	:	ON PETITION

This is a decision on the "Petition To Withdraw Holding of Abandonment Office Action not Received," filed March 31, 2008. The petition is properly treated under 37 CFR 1.181(a). See, MPEP 711.03(c).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office Action, mailed May 21, 2007. The Office action set a three (3) month period for reply. No reply having been received, the application became abandoned on August 22, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment was mailed November 28, 2007.

With the present petition, Applicant has demonstrated non-receipt of the Office action by a preponderance of the evidence. Applicant has also filed a response to the Office action.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to the Technology Center Art Unit 2168, for processing of the response, and for continued examination in due course..

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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DUKE W. YEE
P.O. BOX 802333
YEE & ASSOCIATES, P.C.
DALLAS TX 75380

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DEC 1 1 2008

In re Application of	:	
Mamou et al.	:	
Application No.: 11/064789	:	
Filing or 371(c) Date: 02/24/2005	:	
Attorney Docket Number:	:	
SVL920050579US1	:	ON PETITION

This is a decision on the "Petition to Withdraw Holding of Abandonment Office Action not Received," filed November 7, 2008. The petition is properly treated under 37 CFR 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Pre-interview Office communication, mailed August 5, 2008. The Office communication set a non-extendable one (1) month period for reply. No response having been received, the application became abandoned on September 6, 2008. A Notice of Abandonment was mailed October 7, 2008.

With the instant petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

The holding of abandonment is hereby withdrawn. No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2151 for re-mailing of the Office action and for e-setting the period for reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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MAIL

MAY 16 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :

WESSELINK, RICHARD H., et al. :
Application No. 11/064,812 :
Filed: February 24, 2005 :
For: **TEMPORARY SURVEILLANCE SYSTEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 24,2005 under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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www.uspto.gov

CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS TX

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SEP 29 2006

OFFICE OF PETITIONS

In re Application of	:	
CROSSNO, et al.	:	
Application No. 11/064,869	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO WITHDRAW
Attorney Docket No. METRO 3135000	:	FROM RECORD
	:	

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, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to CARR LLP has been revoked by the assignee of the patent application on August 28, 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 first copied address below until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: SCHEEF & STONE, L.L.P.
5956 SHERRY LANE
SUITE 1400
DALLAS, TX 75226

cc: JOHN M. CROSSNO
3011 S. SKYWAY CIRCLE
IRVING, TX 75038

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/064,869	02/24/2005	Adam Crossno	METRO 3135000

CONFIRMATION NO. 2502

OC000000020613341

21909
CARR LLP
670 FOUNDERS SQUARE
900 JACKSON STREET
DALLAS, TX 75202

Date Mailed: 09/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/28/2006.

- 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).

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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3-5-07

wk

In re Application of	:	
Witty et al.	:	
Serial Number: 11/064,882	:	DECISION
Filed: February 23, 2005	:	ON
For: APPARATUS AND METHOD FOR PROCESS MONITORING	:	PETITION

This is in response to the request filed December 6, 2006, requesting permission for withdrawal as attorney from the above-identified application.

As revocation has been effected, the petition is **dismissed** as moot.

The attorneys/agents are no longer of record for the above identified patent application

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering
Technology Center 1700

Paul Davis
Heller Ehrman
275 Middlefield Road
Menlo Park, CA 94025-3506

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100402

DATE : April 7, 2009

TO SPE OF : ART UNIT 2863
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/064893 /7206709

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.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: ok

DREW A. DUNN
SUPERVISORY PATENT EXAMINER
SPE

2863
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : November 23,2007

TO SPE OF : ART UNIT 3612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/064,915 Patent No.: 7232282 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571 -270-9990

LAMONTE

NEWSOME

Certificates of Correction Branch

703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [X] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3612
Art Unit

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Katherine L. MEYER-SIEGLER et al.	:	
Application No. 11/064,955	:	DECISION ON PETITION
Filed: February 25, 2005	:	
Attorney Docket No. 111828-00122	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed January 31, 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 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 a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/183,687 filed July 31, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00 extension of time fee submitted with the petition on August 20, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to Technology Center AU 1651.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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www.uspto.gov

BANNER & WITCOFF, LTD.
ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Michihiro Nakamura	: DECISION ON REQUEST FOR
Patent Number	: 7616336	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/064,972	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1295** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE: M. Lebentritt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/064,982 Patent No.: 7122420

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 **Art Unit** 2812

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

MAY 11 2005

ap

In re Application of	:	
Heng Liu	:	DECISION
Serial No. 11/064,984	:	ON
Filed: February 23, 2005	:	PETITION
For: CHEMICAL VAPOR DEPOSITION	:	UNDER 708.02,V
REACTOR HAVING MULTIPLE INLETS	:	

This is in response to the petition filed February 23, 2005, requesting that the above-identified application be granted Special Status under Sections 708.02 of the MPEP and 37 CFR 1.102(c).

In a letter filed April 24, 2005, applicant has requested the petition to make special be withdrawn. Accordingly the petition is **Dismissed.**

R Crispino

Richard Crispino, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

Mail Date: 04/20/2010

Applicant	: Anne Marie Davis	: DECISION ON REQUEST FOR
Patent Number	: 7651716	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/064,994	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PETER SU
530 LYTTON AVENUE
SECOND FLOOR
PALO ALTO, CA 94301

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OFFICE OF PETITIONS

In re Application of	:	
Hare K. Verma et al.	:	
Application No. 11/065,019	:	DECISION ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. CSWT 1004-1	:	

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2007 and December 6, 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 November 9, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 10, 2007. A Notice of Abandonment was mailed on June 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2819 for appropriate action by the Examiner in the normal course of business on the reply received November 5, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K ST NW
SUITE 1200
WASHINGTON DC 20006-1109

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OFFICE OF PETITIONS

In re Application of	:	
Marc Lawrence Fredman	:	
Application No. 11/065,029	:	DECISION REFUSING STATUS
Filed: February 25, 2005	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 47004.000264	:	

This is in response to the petition under 37 C.F.R. § 1.47(b), filed October 24, 2005, which is being treated as a petition under 37 C.F.R. §1.47(b).

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on February 25, 2005, without an executed oath or declaration. Accordingly, on March 22, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a five month extension of time.[1]

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirements (2) or (5).

As to requirement (2), there is no indication that Rule 47 applicant has submitted an executed declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[2]

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant has not submitted a copy of the assignment nor a statement under 37 C.F.R. § 3.73(b) by the assignee.[3] If applicant can not show a sufficient proprietary interest by supplying a copy of the assignment (or a copy of an agreement to assign, e.g. an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[4]

---

[1] October 22nd and October 23rd fell on a Saturday and Sunday. See 37 C.F.R. § 1.7(a).

[2] See MPEP 409.03(b).

[3] See MPEP 409.03(f).

[4] Id.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY DEPARTMENT
1900 K ST NW
SUITE 1200
WASHINGTON DC 20006-1109

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	DECISION NOTING JOINDER
Marc Lawrence Fredman	:	OF INVENTOR AND PETITION
Application No. 11/065,029	:	UNDER 37 CFR 1.47(B) MOOT
Filed: February 25, 2005	:	
Attorney Docket No. 47004.000264	:	

This is in response to the "REPLY TO DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)", filed January 31, 2006.

The above-identified application was filed on February 25, 2005, without an executed oath or declaration. Accordingly, on March 22, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(b) on October 24, 2005, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a five month extension of time.[1] However, the petition was dismissed in a decision mailed on December 7, 2005.

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[1] October 22nd and October 23rd fell on a Saturday and Sunday. See 37 C.F.R. § 1.7(a).

In view of the **joinder** of the inventor, consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **moot**. This application does not have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The matter is being forwarded to Group Art Unit 2876 for examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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1940 DUKE STREET
ALEXANDRIA VA 22314

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NOV 24 2009

OFFICE OF PETITIONS

In re Patent No. 7,567,815 :
Issued: July 28, 2009 :
Application No. 11/065,054 : PATENT TERM ADJUSTMENT
Filed: February 25, 2005 :
Dkt. No.: 266356US6 :

This is a decision on the "PETITION UNDER 37 CFR 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed September 17, 2009. Patentee requests correction of the patent term adjustment from 660 days to 783 days. Patentee requests this correction on the sole basis that the Office took in excess of three years to issue the above-referenced patent.

The application for patent term adjustment (PTA) under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,567,815 on July 28, 2009. The patent issued with a patent term adjustment of 660 days. Patentee argues that in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008), the patent is entitled to an adjustment of 783 days (708 days pursuant to 35 USC 154(b)(1)(A) *plus* 160 days pursuant to 35 USC 154(b)(1)(B) *less* 37 overlapping days *less* applicant delay of 48 days).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the filing of the request for continued examination (RCE) on August 3, 2008, the application was pending three years and 159 days after its filing date (February 26, 2008 to August 2, 2008). The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 708 days is correct. At issue is whether patentees should accrue 159 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 708 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 159 days of delay in issuing the patent overlaps with the 708 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:

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)*[1] *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).

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

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[1] 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.

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)(1)(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 25, 2005, and ending on August 2, 2008, the day before the date that the RCE was filed on August 3, 2008.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 708 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the RCE. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 159 days of patent term adjustment accrued at the time of submission of the RCE for Office issuance of the patent more than three years after the application filing date.

The 159 days of patent term adjustment under 37 CFR 1.702(b) overlaps with the 708 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 159 days and the 708 days is neither permitted nor warranted given that 708 days is the actual number of days issuance of the patent was delayed at the time of submission of the RCE.

Accordingly, at issuance, the Office properly entered 660 days of patent term adjustment, having considered the 159 days of Office delay under the three-year pendency provision in conjunction with the 708 days of delay under 37 CFR 1.702(a)(1) reduced 48 days for applicant delay.

In view thereof, no adjustment to the patent term will be made.

No additional fees are due in connection with this matter.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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DEC 1 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Mike Neubert, et al.	:	
Application No. 11/065,135	:	ON PETITION
Filed: February 24, 2005	:	
Attorney Docket No. 24305	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 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 February 5, 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). 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 August 6, 2008. The Notice of Abandonment was mailed September 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 1791 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of :
Gerardo Ocampo et al :
Application No. 11/065,145 : ON PETITION
Filed: February 23, 2005 :
Attorney Docket No. CL/V-33667A

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 on May 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to 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
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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JUN 16 2005

OFFICE OF PETITIONS

In re Application of :
Dvaid Venturi :
Application No. 11/065,155 : DECISION REFUSING STATUS
Filed: February 25, 2005 : UNDER 37 CFR 1.47(b)
Attorney Docket No. 11916-2007 :
For: **FOOD PRODUCT**

This is a decision on the petition under 37 CFR 1.47(b), filed May 31, 2005.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on February 25, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on March 29, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on May 31, 2005, responsively.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks items (2) and (6) as set forth above.

As to item (2), petitioner failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an executed oath or declaration for the subject application. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above.

Further as to item (2), a declaration signed by the assignee 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). No statement or certificate meeting the requirements of 37 CFR 3.73 was found with the petition. Petitioner must properly establish ownership of the patent property before the assignee will be granted authority under 37 CFR 1.47(b) to prosecute the application. Enclosed is a "Statement Under 37 CFR 3.73(b)" that petitioner may use to satisfy this requirement.

As to item (6), petitioner did not include a statement that according the application status under 37 CFR 1.47(b) is necessary to preserve the rights of the 37 CFR 1.47(b) applicant or to prevent irreparable damage. See MPEP § 409.03(g). A statement to this effect must be included with any renewed petition filed.

The fee for the instant petition is $200.00. Accordingly, deposit account 50-2651 will be charged the $70.00 which is the outstanding amount due for the petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/96

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:
Dvaid Venturi	:
Application No. 11/065,155	: DECISION REFUSING STATUS
Filed: February 25, 2005	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 11916-2007	:
For: **FOOD PRODUCT**	

This is a decision on the renewed petition under 37 CFR 1.47(b), filed August 16, 2005.

The petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on February 25, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on March 29, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(b) was filed on May 31, 2005, responsively. The petition was dismissed by a decision mailed June 16, 2005. The instant renewed petition was then filed on August 16, 2005.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2) set forth above.

As to item (2), petitioner again failed to file a proper oath or declaration with the instant petition as required by 37 CFR 1.47. Section 409.03 (b) of the MPEP states, in pertinent part, that:

> [t]he 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.54 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person including an attorney or agent authorized to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent my simply state that he or she is authorized to sign on behalf of the corporation.

A review of the application file did not reveal an executed oath or declaration for the subject application. With any renewed petition filed, petitioner must file a declaration that conforms to the MPEP section cited above. <u>There is no need to file copies of the specification that was sent to the non-signing inventor or the assignment</u>.

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)272-8300
Attn: Office of Petitions

Telephone inquiries 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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In re Application of	:
David Venturi	:
Application No. 11/065,155	: DECISION REFUSING STATUS
Filed: February 25, 2005	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 11916-2007	:
For: **FOOD PRODUCT**	

This is a decision on the second renewed petition under 37 CFR 1.47(b), filed October 3, 2005.

The second renewed petition under 37 CFR 1.47(b) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(b).

The above-identified application was filed on February 25, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Nonprovisional Application" (the "Notice") was mailed on March 29, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(b) was filed on May 31, 2005, responsively. The petition was dismissed by a decision mailed June 16, 2005. A renewed petition was then filed on August 16, 2005, and dismissed by a decision mailed August 29, 2005.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

(5) proof of proprietary interest, and

(6) a showing (statement) that such action is necessary to preserve the rights of the parties or to prevent irreparable damage.

The instant petition lacks item (2) set forth above.

As to item (2), the declaration filed October 3, 2005, is improper as it gives the impression that there are two inventors for this application—Mr. Venturi and Mr. Currier—because Mr. Currier has signed the declaration in a block denoted for "Inventor Two." In order for the declaration to be considered proper, it must contain a signature block for the sole inventor denoting the signature block as such and a signature block for the authorized representative of the 37 CFR 1.47(b) applicant denoting that signature block as such.

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 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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JUN 30 2008

In re Application of	:
David Venturi	:
Application No. 11/065,155	: DECISION GRANTING STATUS
Filed: February 25, 2005	: UNDER 37 CFR 1.47(b)
Attorney Docket No. 11916-2007	:
For: **FOOD PRODUCT**	

This is in response to the third renewed petition under 37 CFR 1.47(b), filed March 16, 2006.

The third renewed petition is **GRANTED**.

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.

The above-identified application was filed on February 25, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing Parts Non-provisional Application" (the "Notice") was mailed on March 29, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. A petition under 37 CFR 1.47(b) was filed on May 31, 2005, responsively. The petition was dismissed by a decision mailed June 16, 2005. A renewed petition was then filed on August 16, 2005, and dismissed by a decision mailed August 29, 2005. A second renewed petition was filed on October 3, 2005, and dismissed by a decision mailed January 23, 2006.

By the instant third renewed petition and evidentiary documents, petitioner has established that the sole inventor has refused to join the prosecution of the application and that the 37 CFR 1.47(b) applicant has sufficient proprietary interest to proceed with prosecution of the application without the sole inventor.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OCT 13 2006

OFFICE OF PETITIONS

In re Application of	:	
GOTHE, et al.	:	
Application No. 11/065,162	:	DECISION ON PETITION
Filed: February 25, 2005	:	TO WITHDRAW
Attorney Docket No. 73898-78840	:	FROM RECORD
	:	

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 28, 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 Olivia Tolan on behalf of herself. Olivia Tolan has been withdrawn as attorney or agent of record; attorneys Reginald Finn and Timothy Platt remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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Sterne, Kessler, Goldstein & Fox PLLC
1100 New York Avenue, NW
Washington, DC 20005

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of
Babin, Schwenk and Sicilia
Application No. 11/065,166
Filed: February 24, 2005
Title: Front-Mountable Injection Molding Nozzle

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed May 18, 2005.

The petition is granted.

Petitioner showed that Robert Sicilia, the non-signing inventor, refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Linda E. Alcorn, Esquire established that petitioner mailed the inventor the application papers, including the specification, claims and drawings, via Federal Express, but he did not respond to the request that he sign 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 inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 1722 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 07/07/2010

Applicant	: Severi Uusitalo	: DECISION ON REQUEST FOR
Patent Number	: 7643008	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/065,169	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. None

Jeffrey M. Hoster
The NutraSweet Company
Merchandise Mart, Suite 936
200 World Trade Center
Chicago IL 60654

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MAR 03 2006

OFFICE OF PETITIONS

In re Application of :
Setrak K. Tanielyan et al. :
Application No. 11/065,222 :
Filed: February 24, 2005 :
Attorney Docket Number: C-690 :
Title: CATALYST SYSTEM FOR :
AEROBIC OXIDATION OF PRIMARY :
AND SECONDARY ALCOHOLS :

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed December 20, 2005, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed March 22, 2005, which set a shortened statutory period for reply of two (2) months. The notice indicated that a substitute specification, an oath or declaration in compliance with 37 C.F.R. §1.63, and the surcharge associated with the late submission of the same would be required. No response was received, and no extensions of time under the provisions of

1 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on May 23, 2005. A notice of abandonment was mailed on December 7, 2005.

Along with the present petition, Petitioner has submitted the petition fee, the surcharge associated with the late submission of an oath or declaration, and a declaration.

Petitioner has met requirements (2) and (3) of 37 C.F.R. §1.137(b). The fourth requirement is not applicable.

The present petition is not grantable because requirement (1) above has not been satisfied. Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[2]. In order for the application to be revived, petitioner will have to submit a substitute specification as well as another declaration - the declaration submitted with the present petition fails to comply with 37 C.F.R. §1.63, in that it fails to contain the pertinent info for Kenneth Furlong, and it does not appear that an Application Data Sheet was filed in conjunction with this application. Furthermore, the declaration lists each of the joint inventors (save Mr. Furlong) multiple times.

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. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries

---

2 See M.P.E.P. 711.03(c).

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 571-273-8300 - please note this is a central facsimile number.

concerning examination procedures or status of the application should be directed to the Technology Center.

Petitioner has indicated that he did not receive the notice of missing parts, so a copy of the same will be included with this decision.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Notice of missing parts, mailed March 22, 2005

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/065,222	02/24/2005	Setrak K. Tanielyan	C-690

CONFIRMATION NO. 2847

FORMALITIES LETTER

OC000000015531033

Jeffrey M. Hoster
The NutraSweet Company
Merchandise Mart, Suite 936
200 World Trade Center
Chicago, IL 60654

Courtesy Copy

Date Mailed: 03/22/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
    - The specification contains drawings or flow diagrams (37 CFR 1.58(a)) on page(s) 01. Drawings or flow diagrams cannot be embedded in the specification and should be submitted separately in accordance with 37 CFR 1.84. (Both a substitute specification and substitute drawings are required).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

- **$130** Late oath or declaration Surcharge.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- A new oath or declaration, identifying this application number is required. The oath or declaration does not comply with 37 CFR 1.63 in that it:
- does not identify the residence (e.g., city and either state or foreign country) of each inventor.
- does not identify the complete mailing or post office address of each inventor.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Jeffrey M. Hoster
The NutraSweet Company
Merchandise Mart, Suite 936
200 World Trade Center
Chicago IL 60654

COPY MAILED
AUG 15 2006
OFFICE OF PETITIONS

In re Application of :
Setrak K. Tanielyan et al. :
Application No. 11/065,222 : DECISION ON RENEWED PETITION
Filed: February 24, 2005 : UNDER 37 C.F.R. §1.137(b)
Attorney Docket Number: C-690 :
Title: CATALYST SYSTEM FOR :
AEROBIC OXIDATION OF PRIMARY :
AND SECONDARY ALCOHOLS :

This is a decision on the renewed petition filed June 1, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed March 22, 2005, which set a shortened statutory period for reply of two (2) months. The notice indicated that a substitute specification, an oath or declaration in compliance with 37 C.F.R. §1.63, and the surcharge associated with the late submission of the same would be required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-

1 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

identified application became abandoned on May 23, 2005. A notice of abandonment was mailed on December 7, 2005.

The original petition was submitted on December 20, 2005, along with the petition fee, the surcharge associated with the late submission of an oath or declaration, and a declaration. The original petition was dismissed via the mailing of a decision on March 3, 2006, for failing to satisfy the first requirement of Rule 1.137(b). The decision indicated:

> In order for the application to be revived, petitioner will have to submit a substitute specification as well as another declaration - the declaration submitted with the present petition fails to comply with 37 C.F.R. §1.63, in that it fails to contain the pertinent info for Kenneth Furlong, and it does not appear that an Application Data Sheet was filed in conjunction with this application. Furthermore, the declaration lists each of the joint inventors (save Mr. Furlong) multiple times.

With the present petition, Petitioner has submitted a one-month extension of time, as well as a duplicate petition fee which is not required. The duplicate petition fee will be refunded to his Deposit Account in due course. Petitioner has further submitted a substitute specification and an acceptable declaration.

The specification which Petitioner submitted on filing could not be accepted, as it contained drawings. The substitute specification which Petitioner has submitted with this renewed petition contains drawings, and as such, it cannot be accepted. Drawings may not be included in the sheets containing the specification. See 37 C.F.R. §1.84(h).

As such, the renewed 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 "Second Renewed Petition Under 37 C.F.R. 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450,
Alexandria, VA, 22313-1450.

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.

Petitioner has indicated that he did not receive the notice of missing parts, so a copy of the same will be included with this decision.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

Encl. Notice of missing parts, mailed March 22, 2005

---

3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 571-273-8300 - please note this is a central facsimile number.

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/065,222	02/24/2005	Setrak K. Tanielyan	C-690

CONFIRMATION NO. 2847

FORMALITIES LETTER

OC000000015531033

Jeffrey M. Hoster
The NutraSweet Company
Merchandise Mart, Suite 936
200 World Trade Center
Chicago, IL 60654

Courtesy Copy

Date Mailed: 03/22/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of $130 for a non-small entity, must be submitted with the missing items identified in this letter.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- A substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3), and 1.125, is required. The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because:
    - The specification contains drawings or flow diagrams (37 CFR 1.58(a)) on page(s) 01. Drawings or flow diagrams cannot be embedded in the specification and should be submitted separately in accordance with 37 CFR 1.84. (Both a substitute specification and substitute drawings are required).

Applicant is cautioned that correction of the above items may cause the specification and drawings page count to exceed 100 pages. If the specification and drawings exceed 100 pages, applicant will need to submit the required application size fee.

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$130** for a Large Entity

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- **$130** Late oath or declaration Surcharge.

Items Required To Avoid Processing Delays:

The item(s) indicated below are also required and should be submitted with any reply to this notice to avoid further processing delays.

- A new oath or declaration, identifying this application number is required. The oath or declaration does not comply with 37 CFR 1.63 in that it:
- does not identify the residence (e.g., city and either state or foreign country) of each inventor.
- does not identify the complete mailing or post office address of each inventor.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

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Paper No. None

Jeffrey M. Hoster
The NutraSweet Company
Merchandise Mart, Suite 936
200 World Trade Center
Chicago IL 60654

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of
Setrak K. Tanielyan et al.
Application No. 11/065,222
Filed: February 24, 2005
Attorney Docket Number: C-690
Title: CATALYST SYSTEM FOR AEROBIC OXIDATION OF PRIMARY AND SECONDARY ALCOHOLS

DECISION ON SECOND RENEWED PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the second renewed petition filed October 10, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed March 22, 2005, which set a shortened statutory period for reply of two months. The notice indicated that a substitute specification, an oath or declaration in compliance with 37 C.F.R. §1.63, and the surcharge associated with the late submission of the same would be required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-

1 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 § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

identified application became abandoned on May 23, 2005. A notice of abandonment was mailed on December 7, 2005.

The original petition was submitted on December 20, 2005, along with the petition fee, the surcharge associated with the late submission of an oath or declaration, and a declaration. The original petition was dismissed via the mailing of a decision on March 3, 2006, for failing to satisfy the first requirement of Rule 1.137(b).

The renewed petition was filed on June 1, 2006, and was dismissed via the mailing of a decision on August 15, 2006.

With the present second renewed petition, Petitioner has attested, over his registration number, that the figure at the bottom of the fifth page of the substitute specification is not a drawing, but rather a "reaction scheme." The petition appears to be silent as to the figure which appears at the bottom of the fourth page, however, the Office will presume that this figure is a reaction scheme and not a drawing. Petitioner must notify the Office if this is not a correct interpretation.

The second renewed petition is **GRANTED**.

The Office of Initial Patent Examination (OIPE) will be made aware of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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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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Minneapolis, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Yoshiaki Yoshida	:	
Application No. 11/065,252	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO WITHDRAW
Attorney Docket No. HAT-029-USA-P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Donald E. Townsend, Jr. on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Yoshiaki Yoshida**
334 Kamisakae, Toyama-shi
Toyama-ken
Japan

cc: **Mr. James A. Oliff**
Oliff & Berridge, PLC
277 S. Washington Street, Suite 500
Alexandria, VA 22314

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
11/065,252	02/24/2005	Yoshiaki Yoshida	HAT-029-USA-P

CONFIRMATION NO. 2631

OC000000025144457

27955
TOWNSEND & BANTA
c/o PORTFOLIO IP
PO BOX 52050
MINNEAPOLIS, MN 55402

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JUL -1 2005

In re Application of	:	
Charles A. Wittwer	:	
Serial No. 11/065,262	:	DECISION ON PETITION
Filed: February 25, 2005	:	TO MAKE SPECIAL
For: SPORTING EVENT PREDICTION	:	
AND SKILL GAME	:	

Applicant's petition, filed February 25, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Robert P. Cogan
Nath & Associates
1030 15th St., NW, Suite 600
Washington, DC 20005-1509

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OFFICE OF PETITIONS

FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

In re Application of	:	
Peltier, et al.	:	
Application No. 11/065,270	:	ON PETITION
Filed: February 23, 2005	:	
Attorney Docket No. PRLX-P01-006	:	

This is a decision on the "Petition to Change Current Order of Inventors" filed April 21, 2006, which will be treated as a petition under 37 CFR 1.182(a), , to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

1. John M. Peltier
2. Srdjan Askovic
3. Mortiz von Rechenberg
4. Sudhir R. Sahasrabudhe
5. Robert Selliah
6. Thomas Zarembinski

A corrected filing receipt is enclosed.

The fee for the instant petition is $400.00. Accordingly, deposit account 18-1945, will be charged an additional $270.00

The application file is being directed to Technology Center 1600, GAU 1614 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

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
11/065,270	02/23/2005	1614	1240	PRLX-P01-006	23	9

CONFIRMATION NO. 2021

CORRECTED FILING RECEIPT

OC000000023584194

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 04/27/2007

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)

John M. Peltier, Sandy, UT;
Srdjan Askovic, Salt Lake City, UT;
Moritz von Rechenberg, Salt Lake City, UT;
Sudhir R. Sahasrabudhe, Sandy, UT;
Robert Selliah, Midvale, UT;
Thomas Zarembinski, Salt Lake City, UT;

Assignment For Published Patent Application

Prolexys Pharmaceuticals Inc., Salt Lake City, UT

Power of Attorney: The patent practitioners associated with Customer Number **28120**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/547,157 02/23/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/065,270

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Non-peptidyl agents with pHSP20-like activity, and uses thereof

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Juang-hwan Choi	: DECISION ON REQUEST FOR
Patent Number	: 7644195	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,276	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **654** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MCLEAN, VA 22102-3833

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JUN 19 2008

OFFICE OF PETITIONS

In re Application of :
Robert E. Sterling, et al. :
Application No. 11/065,281 : DECISION ON PETITION
Filed: February 25, 2005 : TO WITHDRAW
Attorney Docket No. T2281-9214US01 : FROM RECORD

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 27, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the petitioners were not appointed by customer number. In order to withdraw by customer number the practitioners must have been appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DENNIS P. CLARKE
7422 OLD MAPLE SQUARE
MCLEAN, VA 22102

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1751 Pinnacle Drive
Suite 500
McLean, VA 22102-3833

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SEP 25 2008

In re Application of :
Robert E. Sterling et al. :
Application No. 11/065,281 : ON PETITION
Filed: February 25, 2005 :
Attorney Docket No. T2281-9214US01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 20, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of November 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2).

As to item 1, the amendment filed on June 20, 2008, does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of an advisory action.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

Attachment: Courtesy copy of advisory action

cc: Dennis Clarke
7422 Old Maple Square
McLean, VA 22102

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/065,281	Applicant(s) STERLING ET AL.	
	Examiner Peter Szekely	Art Unit 1796	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____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: *The amendment is not timely*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-29*.
   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: _____.

/Peter Szekely/
Primary Examiner, Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance because: There is nothing in the claims to indicate that the thermosetting resin cannot be cured, what is specified is that it cannot be cured by the fluorocarbon additive. As a matter of fact claims 52-56 disclose a crosslinked (cured) resin.

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OFFICE OF PETITIONS

In re Application of	:	
Robert E. Sterling, et al.	:	
Application No. 11/065,281	:	DECISION ON PETITION
Filed: February 25, 2005	:	TO WITHDRAW
Attorney Docket No. T2281-9214US01	:	FROM RECORD
	:	

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 23, 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 Gianna J. Arnold 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 first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The application became abandoned for failure to timely reply to the outstanding Office action mailed November 13, 2007.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT E. STERLING
PO BOX 3268
HOMOSASSA SPS, FL 34447

cc: DENNIS P. CLARKE
7422 OLD MAPLE SQUARE
MCLEAN, VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/065,281	02/25/2005	Robert E. Sterling	T2281-9214US01

CONFIRMATION NO. 7740

POWER OF ATTORNEY NOTICE

181
MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

OC000000033236185

Date Mailed: 11/21/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/23/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Robert E. Sterling
P.O. Box 3268
Homosassa Sps, FL 34447

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OFFICE OF PETITIONS

In re Application of	:	
Robert E. Sterling et al.	:	
Application No. 11/065,281	:	ON PETITION
Filed: February 25, 2005	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2008, and supplemented on November 26, 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 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).

The petition decision mailed September 25, 2008 dismissed the petition filed June 20, 2008 for failure to provide a proper reply to the Office action mailed on November 13, 2007. The renewed petition includes a proper reply.

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, with the required fee of $405, (2) the petition fee of $770, 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 1796 for further processing that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: Dennis Clarke
7422 Old Maple Square
McLean, VA 22102

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APR 24 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/065,315	: PETITION DECISION
Filed: February 24, 2005	:
Attorney Docket No.: 1421-184	

This is in response to the petition under 37 CFR § 1.59(b), filed April 9, 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 9, 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	:
William H. Eby	:
Serial No.: 11/065,315	: PETITION DECISION
Filed: February 24, 2005	:
Attorney Docket No.: 1421-184	:

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 9, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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AUG 10 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/065,321	: PETITION DECISION
Filed: February 24, 2005	:
Attorney Docket No.: 1421-186	:

This is in response to the petition under 37 CFR § 1.59(b), filed June 14, 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 June 14, 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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APR 27 2007

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
William H. Eby	:
Serial No.: 11/065,322	: PETITION DECISION
Filed: February 24, 2005	:
Attorney Docket No.: 1421-187	

This is in response to the petition under 37 CFR § 1.59(b), filed April 9, 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 9, 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	:
William H. Eby	:
Serial No.: 11/065,322	: PETITION DECISION
Filed: February 24, 2005	:
Attorney Docket No.: 1421-187	:

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 9, 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/065,326	02/24/2005	David Allen Moore	200403162-1	2768

7590 05/27/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
FLANIGAN, ALLEN J

ART UNIT	PAPER NUMBER
3744	

NOTIFICATION DATE	DELIVERY MODE
05/27/2008	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: 05/28/2008 NFARMER
03/01/2005 SDIRETAI 00000025 082025 11065326
02 FC:1111 500.00 CR
04 FC:1202 50.00 CR

FORM PET651G (Rev. 08/07)

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CHARLES N.J. RUGGIERO, ESQ.
OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901-2682

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JUN 05 2007

OFFICE OF PETITIONS

In re Application of	:
Wolfgang Singer et al	:
Application No. 11/065,327	: DECISION GRANTING PETITION
Filed: February 24, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 637.0044USX	:

This is a decision on the petition, filed June 4, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on April 26, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\june10\065327.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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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

Mail Date: 04/21/2010

Applicant	: David R. Elmaleh	: DECISION ON REQUEST FOR
Patent Number	: 7632485	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,345	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **318** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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. None

ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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MAY 0 9 2005

OFFICE OF PETITIONS

In re Application of
Didier Lepere et al.
Application No. 11/065,362
Filed: February 25, 2005
Attorney Docket No.:
103120-00064
Title: LIGHT DIFFRACTION OPTICAL METHOD, WITH CORRESPONDING OPTICAL SYSTEM AND DEVICE

DECISION ON PETITION

This is a decision on the petition filed April 1, 2005, requesting that the above-identified application, including pages 2 and 3 of the specification, be accorded a filing date of February 25, 2005 as part of the original disclosure.

The application was deposited on February 25, 2005. However, on March 21, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (notice), stating that the application had been accorded a filing date, and advising applicants that pages 2 and 3 of the specification appeared to have been omitted. The notice set a two-month period of reply.

In response, on April 1, 2005, applicants filed the present petition. The petition is further accompanied by a copy of pages 2 and 3 of the specification, along with a copy of applicants' postcard receipt acknowledging receipt of "Specification (11 pgs.)" in the United States Patent and Trademark Office (Office) on February 25, 2005. Applicants request that pages 2 and 3 of the specification be accorded a filing date of February 25, 2005.

It is noted that 6 pages of specification (pages 1 and 4-8) have been located in the electronic file, along with 2 pages of claims and a 1 page abstract.

Upon review of the record, the above-mentioned pages have not been located among the application papers. However, the evidence is

convincing that the application papers deposited on February 25, 2005 included pages 2 and 3 of the specification, and these sheets were subsequently misplaced in the Office.

Therefore, the application, including pages 2 and 3 of the specification, was complete on filing and entitled to a filing date of February 25, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed March 21, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to OIPE for further processing with a filing date of February 25, 2005, using the original application papers filed on that date, as well as pages 2 and 3 of the specification submitted on April 1, 2005, and for noting in Office records that these Figures were present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
Richard Brown and Joseph Hillman
Application No. 11/065,377
Filed: February 23, 2005
Title: CLEANING STEP IN
SUPERCRITICAL PROCESSING

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 13, 2005 (Certificate of Mailing date: July 11, 1005).

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 1700 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/Patent
United States Patent and Trademark Office

01 AUG 2005

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Nils H. Ljungman
NILS H. LJUNGMAN & ASSOCIATES
P.O. Box 130
Greensburg, PA 15601

In re Application of	:	
SATTLER, Manfred, et al.	:	
U.S. Application No.: 11/065,394	:	
PCT No.: PCT/EP03/06810	:	DECISION
International Filing Date: 27 June 2003	:	
Priority Date: 04 September 2002	:	
Attorney's Docket No.: NHL-WSC-08-NP (RBB)	:	
For: HIP OR RIDGE STRIP	:	

This decision is issued in response to applicant's "Petition For Review" filed on 29 July 2005, treated herein under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 27 June 2003, applicants filed international application PCT/EP03/06810 which claimed a priority date of 04 September 2002 and which designated the United States. On 18 March 2004, a copy of the international application was transmitted to the United States Patent and Trademark Office ("USPTO") by the International Bureau (IB). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 04 March 2005.

On 24 February 2005, applicants filed a transmittal letter which specifically stated it was a "Transmittal Letter For New Patent Application Under 35 U.S.C. §371" and included the following identifying statement: "U.S. Patent Application entering the National Phase in the U.S. from International Patent Application No. PCT/EP2003/006810, filed June 27, 2003, which claims priority from Federal Republic of Germany Patent Application No. 102 40 681.2, filed on September 4, 2002." The transmittal letter was accompanied by, among other materials, the basic national fee, a translation of the international application into English, and a declaration executing PCT/EP03/06810. Despite the instructions regarding 35 U.S.C. 371, the application was processed under 35 U.S.C. 111.

On 29 April 2005, the USPTO issued a filing receipt which did not reference the international application.

On 29 April 2005, the USPTO also mailed a "Notice Regarding Benefit/Priority Claim(s)" which indicated that applicants had "submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371."

On 29 July 2005, applicants filed the petition considered herein. The petition seeks correction of the present application to a national stage application under 35 U.S.C. 371 and the mailing of a corrected filing receipt identifying the application as such.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.494(f):

> The documents and fees submitted ... must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a).

As noted above, applicants' original Transmittal Letter, filed 24 February 2005, specifically identified the accompanying submission as a submission to enter the national stage under 35 U.S.C. 371. No contradictory instructions were submitted. Accordingly, the present application, 11/065,394, is appropriately treated as the national stage, filed under 35 U.S.C. 371, of international application PCT/EP03/06810. The filing status of this application will therefore be corrected to a national stage application submitted under 35 U.S.C. 371.

The submission on 24 February 2005 included an executed declaration of the inventor and a translation of the international application into English. The declaration complies with the requirements of 37 CFR 1.497(a) and (b), and the IB had earlier transmitted a copy of the international application. Thus, as of the submission 24 February 2005, applicants had satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4).

CONCLUSION

Applicants' petition is **GRANTED**. The present application will be treated a national stage, filed under 35 U.S.C. 371, of international application of PCT/EP03/06810.

The "Notice Regarding Benefit/Priority Claim(s)" mailed 29 April 2005 is hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the International Division for further processing in accordance with this decision (including the

issuance of a corrected filing receipt). The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 24 February 2005.

Richard M. Ross
PCT Petitions Attorney
Office Of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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JUN 16 2005

CARSTENS YEE & CAHOON, LLP
PO Box 802334
Dallas, TX 75380

In re application of Robert Yarbrough et al. Application No. 11/065,404 Filed: February 24, 2005 For: TORQUE CONVERTER	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ENERGY)**

This is a decision on the petition filed February 24, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section VI: Energy.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicants or their attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petitioner states that the invention contributes to the conservation of energy resources by providing a torque converter that, when used, results in increased fuel economy.

For the above stated reasons, 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/js: 6/9/05

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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
11/065,407	02/24/2005	3736	1250	END5490USNP	10	25	3

CONFIRMATION NO. 3327

CORRECTED FILING RECEIPT

OC000000017128506

000027777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Date Mailed: 09/29/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

William L. Hassler JR., Cincinnati, OH;
Russell L. Holscher, West Chester, OH;
Lauren S. Perry, Cincinnati, OH;

Power of Attorney: The patent practitioners associated with Customer Number **000027777**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/065,407

Projected Publication Date: 08/24/2006

Non-Publication Request: No

Early Publication Request: No

Title

Non-invasive measurement of fluid pressure in an adjustable gastric band

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 9

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

APR 22 2010

OFFICE OF PETITIONS

In re Application of	:
William L. Hassler Jr., et al.	:
Application No. 11/065,410	: DECISION DISMISSING
Filed: February 24, 2005	: PETITION UNDER
Attorney Docket No. END5435USNP	: 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 19, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until April 21, 2010, the date after the above-identified application issued as U.S. Patent No. 7,699,770 on April 20, 2010. Since the case has now issued, the petition to withdraw from issue cannot be granted.

Petitioner is reminded, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810.00 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ralph A. Dowell of DOWELL & DOWELL P.C.
2111 Eisenhower Ave
Suite 406
Alexandria VA 22314

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SEP 19 2007

OFFICE OF PETITIONS

Applicant: Graves et al.
Appl. No.: 11/065,420
Filing Date: Febrary 25, 2005
Title: USE OF LOCATION AWARENESS TO REQUEST ASSISTANCE FOR A MEDICAL EVENT OCCURRING IN A HEALTHCARE ENVIRONMENT
Attorney Docket No.: 14980
Pub. No.: US 2006/0181424 A1
Pub. Date: August 17, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on October 16, 2006, for the above-identified application.

The request is DISMISSED.

The instant request is that the application be republished because the patent application publication contains the material errors as follows:

In claim 24, the letters "pl" should not appear.
In claim 24, two paragraphs have been improperly written as one paragraph.
On page 3, paragraphs 40 and 41 should be a single paragraph.

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor wherein in claim 24, the letters "pl" were improperly printed and two paragraphs were improperly printed as a single paragraph and on page 3, wherein paragraphs [0040] and [0041] are Office errors but the mistakes are not material errors under 37 CFR 1.221(b). The error with respect to the misprinted letters is typographical error, which is clearly

[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).

understandable to one of ordinary skill in the art in reading the claim. The error with respect to the paragraphs is also a minor typographical error, which is understandable to one of ordinary skill in the art in reading the specification and claims. The mistakes are minor typographical errors, which do not affect the understanding of the specification and claims. The mistakes do not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,372,429	:	
Charles M. Benson	:	ON PETITION UNDER 37 C.F.R.
Issue Date: May 13, 2008	:	1.183 AND ON REQUEST FOR
Application No. 11/065,449	:	RECONSIDERATION OF PATENT TERM
Filed: July 21, 2004	:	ADJUSTMENT
Attorney Docket No. STAN-494	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), both of which were filed on November 10, 2008.

The petition under 37 C.F.R. 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 C.F.R. 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 C.F.R. 1.183 or to the decision on application for patent term adjustment under 37 C.F.R. 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 C.F.R. 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,372,429, with a revised patent term adjustment of 625 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. 1.183 to (i) suspend or waive the requirement of 37 C.F.R. 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request in view of the decision by the United States District Court for the District of Columbia in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) on September 30, 2008.

ON PETITION UNDER 37 C.F.R. 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 C.F.R. 1.705(d)

The above-referenced patent issued on May 13, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 10, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 C.F.R. 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term

> adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 C.F.R. 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 13, 2008, the date two months from the date this patent issued, May 13, 2008. Rather, on November 10, 2008, more than a month after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 C.F.R. 1.183 provides 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 Director or the Director'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(f).

Preliminarily, it is recognized that the two-month requirement of 37 C.F.R. § 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 C.F.R.

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and

§ 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. Specifically, petitioner states that in Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 C.F.R. § 1.702(b) in addition to any examination delay under 37 C.F.R. § 1.702(a), to the extent that the two periods of delay do not occur on the same day. Further, petitioner argues that waiver is warranted as although the request for reconsideration is being filed outside of the two-month period, it is being filed within the 180-day statutory period for filing a civil action.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 C.F.R. § 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. § 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary.

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accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

[2] 35 U.S.C. 154(b)(4) (A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. — (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Further, the fact that the 180-day period for filing a civil action pursuant to 35 U.S.C. § 154(b)(4)(A) has not expired does not make the situation extraordinary. With respect to seeking judicial relief pursuant to 35 U.S.C. § 154(b)(4)(A), the Office has made clear that the fundamental principle of administrative law that one must first exhaust his or her administrative remedies before resort is had to the courts, and that the failure to seek administrative relief within the prescribed time period forecloses the right to judicial relief applies. In re Patent No. 6,484,146, 71 U.S.P.Q.2d (November 26, 2003)(citing Barrington Manor Apartments Corp. v. United States, 392 F.2d 224, 227-228 (Ct. Cl. 1968); see also Mackay v. Commissioner of Patents and Trademarks, No. 99-1305, 1999, U.S. App. LEXIS 25718, at *4-5 (Fed. Cir., Oct. 18, 1999)). Petitioner, if not on notice by established principles of administrative law, was on notice by the Office's issuance of the above-cited Opinion that failure to file a request for reconsideration of patent term adjustment within the two-month period as required would likely foreclose their right to judicial relief. Yet, petitioner chose not to file a request for reconsideration within the two-month period. This consequence of their failure does not render the failure an extraordinary situation warranting waiver of the two-month requirement. The key consideration, regardless of the time remaining to file a civil action, in determining if waiver is

warranted is whether the circumstance that led to petitioner failing to meet the two-month requirement was an extraordinary situation where justice requires waiver.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 C.F.R. 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 C.F.R. 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review. The fact that time remains for seeking judicial review does not change this conclusion. It would be arbitrary to make an exception for this petitioner because they have for example, 30 days remaining to file a civil action rather than 2 days or 0 days. In addition, given that the law only allows 180-days for both the filing of a petition and for the Office's consideration of that petition petitioner failed to explain their nearly six-week delay in filing the petition after the Wyeth decision weighs against them. The remaining period to file a civil action does not so distinguish petitioner's situation from any other patentee who failed to meet the two-month deadline for filing a request for reconsideration of patent term adjustment determination such that justice requires waiver.

In view thereof, the petition under 37 C.F.R. § 1.183 for waiver of the two-month requirement of 37 C.F.R. § 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. § 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed November 10, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to seven hundred two (702) days.

On May 13, 2008, the above-identified application matured into U.S. Patent No. 7,372,429 with a revised patent term adjustment of 625 days. The instant request for reconsideration was filed nearly six months after the issuance of the patent, on November 10, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 C.F.R. § 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 C.F.R. § 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges the $200.00 fee set forth in 37 C.F.R. § 1.18(e) for filing the Request for Reconsideration of Patent Term Adjustment. However, the Office finance records reveal that patentee submitted a $130.00 fee for the filing of the petition under 37 C.F.R. § 1.183. The current fee for filing a

petition under 37 C.F.R. § 1.183 is $400.00. The Office will charge the balance due of $270.00 to the Deposit Account as authorized. As these fees are necessary, no refund is warranted.

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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MAY 16 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

In re Application of	:
Charles Cunnyngham	:
Serial No.: 11/065,462	: SUSPENSION OF ACTION
Filed: February 24, 2005	:
Attorney Docket No.: P06295US02 - PHI 1468C	:

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

§ 1.103 Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

The application will be forwarded to the examiner for initial examination in turn.

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090721

DATE : July 21, 2009

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7,407,893

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:

Yes, the changes should have been printed. The 1/24/06 IDS was not initialed but the examiner considered the references and forgot to draw the line up and down in the considered initial box. The remaining changes are minor and do not effect the scope and should have been reflected in the final version of the patent.

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

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DUANE MORRIS LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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DEC 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
SARRAF, et al.	:	
Application No. 11/065,465	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO WITHDRAW
Attorney Docket No. H1799-00238	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 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, "assignee of record requested file be transferred", 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: **CHISTOPHER B. AUSTIN**
MICHAEL BEST & FRIEDRICH LLP
100 E. WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202

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PHILADELPHIA, PA 19103-4196

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DEC 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
GARNER	:	
Application No. 11/065,466	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO WITHDRAW
Attorney Docket No. H1799-00148	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 03, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "The reason for this request is that the assignee of record has requested that the file be transferred to the below-named attorney and law firm," are not appropriate since it 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.

There are no outstanding Office actions that require a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

P Volpe

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER B. AUSTIN
MICHAEL BEST & FRIEDRICH, LLP
100 E. WISCONSIN AVENUE, SUITE 3300
MILWAUKEE, WI 53202

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

IP FOCUS LAW GROUP, LTD
608 NORTH CARLYLE LANE
SUITE 100
ARLINGTON HEIGHTS, IL 60004

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OFFICE OF PETITIONS

In re Application of	:	
Stanley GABREL	:	
Application No. 11/065,467	:	DECISION ON PETITION
Filed: February 24, 2005	:	
Attorney Docket No. SE-106	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 1, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received December 3, 2007.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE, MARTENS, OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Kates	:	
Application No. 11/065,487	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. KATES.036A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 18, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes declaration statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3634 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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FROM DIRECTORS OFFICE
MAY 17 2005
TECHNOLOGY CENTER 3600

ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

In re Application of:
Michael J. Lamore
Serial No. 11/065,494
Filed: February 24, 2005
For: RETRACTABLE WIDE-SPAN VEHICLE BARRIER SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the renewed petition filed on February 24, 2005 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI. The delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that the invention is directed to countering terrorism by providing a vehicle barricade/disabling system that protects an area from vehicle-based terrorist activities.

Since all of the requirements for special status under MPEP § 708.02 XI have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/jwk: 5/9/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Glen E. Simmonds	: DECISION ON REQUEST FOR
Patent Number	: 7581376	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,495	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/22/07

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/065509 Patent No: 7192957 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE — **Art Unit** 1626

Docket Number: IN06132US01
Application No: 11/065509
Filing Date: 02/24/2005

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7192957 B2

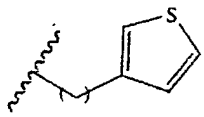
DATED : 03/20/2007

INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

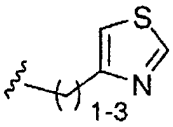
In the Claims:

Claim 1, Col. 554, lines 20-25: Please correct:



1-3

with



1-3

Claim 1, Col. 554, line 50: Replace "$C(R)_2$" with – C(R) --.

MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept. K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

No. of additional copies

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.**

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Docket Number: IN06132US01

Application No: 11/065509

Filing Date: 02/24/2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

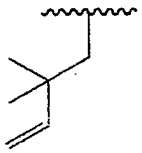
PATENT NO. : 7192957 B2

DATED : 03/20/2007

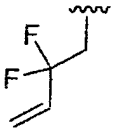
INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

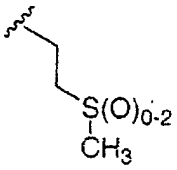
Claim 4, Col. 556, lines 60-65: Please correct:



with



Claim 4, Col. 557, lines 40-50: Please insert:



MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept, K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

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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.**

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Docket Number: IN06132US01

Application No: 11/065509

Filing Date: 02/24/2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

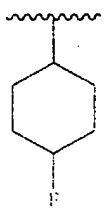
PATENT NO. : 7192957 B2

DATED : 03/20/2007

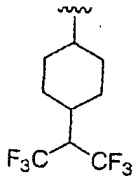
INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 5, Col. 558 lines 30-40: Please correct:



with



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PATENT NO. 7192957 B2

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Docket Number: IN06132US01

Application No: 11/065509

Filing Date: 02/24/2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

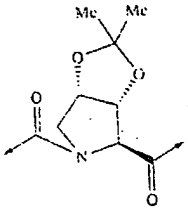
PATENT NO. : 7192957 B2

DATED : 03/20/2007

INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 8, Col. 561 Lines 15-20: Please delete:



MAILING ADDRESS OF SENDER:
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PATENT NO. 7192957 B2

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Docket Number: IN06132US01

Application No: 11/065509

Filing Date: 02/24/2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

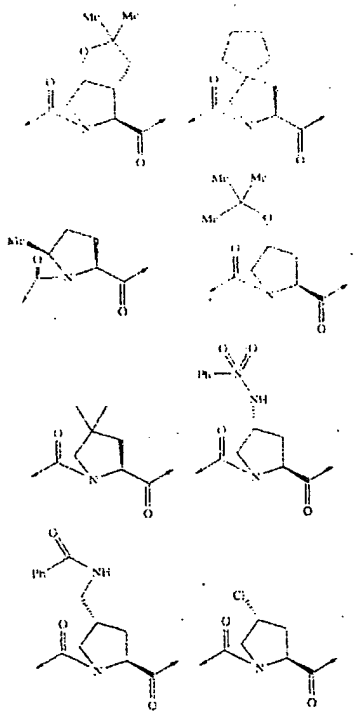
PATENT NO. : 7192957 B2

DATED : 03/20/2007

INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 8, Col. 561 Lines 30-65: Please delete:



MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept. K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Docket Number: IN06132US01

Application No: 11/065509

Filing Date: 02/24/2005

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

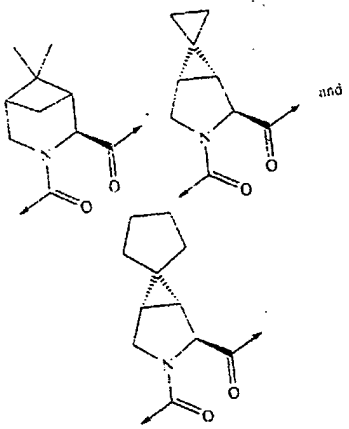
PATENT NO. : 7192957 B2

DATED : 03/20/2007

INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 8, Col. 562 Lines 1-20: Please delete:



and

MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept, K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

No. of additional copies

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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Docket Number: IN06132US01
Application No: 11/065509
Filing Date: 02/24/2005

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

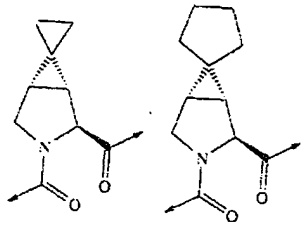
PATENT NO. : 7192957 B2

DATED : 03/20/2007

INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 10, Col. 563 Lines 35-45: Please delete:



MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept, K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

No. of additional copies

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.

Docket Number: IN06132US01

Application No: 11/065509

Filing Date: 02/24/2005

PTO/SB/44 (04-04)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

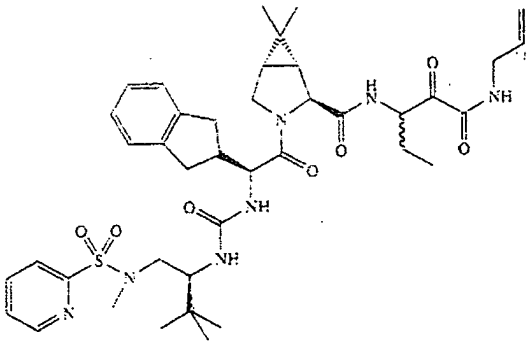
PATENT NO. : 7192957 B2

DATED : 03/20/2007

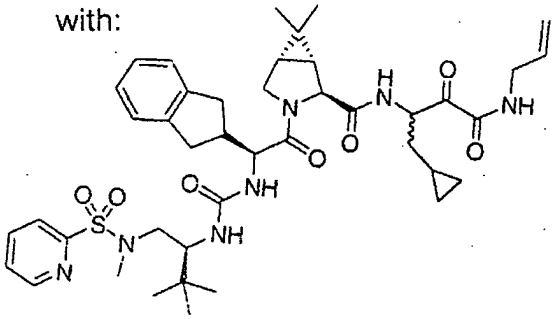
INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 20, Col. 583 Lines 35-45: Please replace:



with:



MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept. K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

No. of additional copies

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.

Docket Number: IN06132US01
Application No: 11/065509
Filing Date: 02/24/2005

PTO/SB/44 (04-04)
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

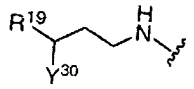
PATENT NO. : 7192957 B2

DATED : 03/20/2007

INVENTOR(S) : VENKATRAMAN, Srikanth et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Claim 28, Col. 588 Lines 5-10: Please add:



Claim 28, Col. 588 Line 53: Please replace: Y+ with Y^{30} .

MAILING ADDRESS OF SENDER:
SERENA FARQUHARSON-TORRES
Schering-Plough Corporation, Patent Dept. K-6-1, 1990
2000 Galloping Hill Road, Kenilworth NJ 07033-0530

PATENT NO. 7192957 B2

No. of additional copies

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.**

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Lipsitz & McAllister, LLC
755 MAIN STREET
MONROE CT 06468

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MAY 30 2008

OFFICE OF PETITIONS

In re Application of :
Dworschak, et al. : LETTER REGARDING PTA
Application No. 11/065,525 :
Filed: February 23, 2005 :
Atty. Dkt. No.: HOE-870 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed March 19, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed January 15, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 68 days. Applicants indicate that the application is entitled to zero days of patent term adjustment. Applicants further indicate that the Office failed to assess a reduction in connection with the request for continued examination (RCE) filed June 25, 2007.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is zero days, as indicated by applicants.

As reflected in the Determination of Patent Term Adjustment mailed January 15, 2008, an adjustment of 68 can be attributed to the Office.

The Office neglected to assess a reduction of 82 days in accordance with 37 CFR 1.704(b) in connection with the RCE filed June 25, 2007. The reduction commenced April 5, 2007, the day after the date that is three months after the date that the final rejection was mailed, and ended June 25, 2007, the date that the RCE was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment zero days, as indicated by applicants.

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Thursday
Date: 5/29/2008

PALM INTRANET

Time: 11:26:48

PTA Calculations for Application: 11/065525			
Application Filing Date:	02/23/2005	PTO Delay (PTO):	68
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-82		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	05/29/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		82	
61	01/15/2008	MAIL NOTICE OF ALLOWANCE			
60	01/15/2008	MAIL EXAMINER'S AMENDMENT			
59	01/14/2008	ISSUE REVISION COMPLETED			
58	01/14/2008	DOCUMENT VERIFICATION			
57	01/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
56	01/14/2008	EXAMINER'S AMENDMENT COMMUNICATION			
55	01/14/2008	NOTICE OF ALLOWABILITY			
53	11/30/2007	MAIL FINAL REJECTION (PTOL - 326)			
52	11/29/2007	FINAL REJECTION			
51	11/05/2007	DATE FORWARDED TO EXAMINER			
50	10/26/2007	RESPONSE AFTER NON-FINAL ACTION			
49	07/31/2007	MAIL NON-FINAL REJECTION			
48	07/25/2007	NON-FINAL REJECTION			
47	07/11/2007	DATE FORWARDED TO EXAMINER			
46	06/25/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
45	07/11/2007	DATE FORWARDED TO EXAMINER			
44	06/25/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
43	07/11/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
42	06/25/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	07/11/2007	CASE DOCKETED TO EXAMINER IN GAU			
37	07/11/2007	CASE DOCKETED TO EXAMINER IN GAU			

36	07/10/2007	CASE DOCKETED TO EXAMINER IN GAU			
29	06/25/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
28	04/10/2007	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
27	04/02/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
26	03/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
25	01/04/2007	MAIL FINAL REJECTION (PTOL - 326)			
24	12/26/2006	FINAL REJECTION			
23	09/21/2006	DATE FORWARDED TO EXAMINER			
22	09/14/2006	RESPONSE AFTER NON-FINAL ACTION			
21	06/30/2006	MAIL NON-FINAL REJECTION	68		-1
20	06/26/2006	NON-FINAL REJECTION			
19	02/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	04/24/2006	MISCELLANEOUS INCOMING LETTER			
17	11/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	11/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	02/23/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	02/23/2005	REFERENCE CAPTURE ON IDS			
13.7	02/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	02/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	02/23/2005	NEW OR ADDITIONAL DRAWING FILED			
11	04/01/2005	APPLICATION RETURN FROM OIPE			
10	04/04/2005	APPLICATION IS NOW COMPLETE			
9	04/01/2005	APPLICATION RETURN TO OIPE			
8	04/01/2005	APPLICATION RETURN FROM OIPE			
7	04/01/2005	APPLICATION RETURN TO OIPE			
6	04/01/2005	APPLICATION DISPATCHED FROM OIPE			
5	04/04/2005	APPLICATION IS NOW COMPLETE			
4	03/30/2005	CLEARED BY OIPE CSR			
3	03/30/2005	CASE CLASSIFIED BY OIPE			
2	03/08/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	02/23/2005	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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OIPE IAP12
MAR 19 2008
PATENT & TRADEMARK OFFICE

IFW

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Application of:	)
	)
M. Dworschak, et al.	) Notice of
	) Allowance:
Application No.: 11/065,525	) January 15, 2008
	)
Filed: February 23, 2005	) Examiner:
	) Lee S. Cohen
For: TWO-PART MEDICAL INSTRUMENT	)
	) Art Unit: 3739

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as FIRST-CLASS MAIL in an envelope addressed to: MAIL STOP ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

March 17, 2008

By: Carol Prentice
Carol Prentice

MAIL STOP ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

LETTER REGARDING PATENT TERM ADJUSTMENT

Dear Sir:

The Determination of Patent Term Adjustment that accompanied the Notice of Allowance for the present application indicates a patent term extension of 68 days. Applicants submit that the 68-day patent term extension is thought to be longer than appropriate.

In particular, the patent term extension appears to have been calculated without consideration to the 82-day delay in Applicants' *Amendment and Request for Continued Examination (RCE)* filed on June 25, 2007. Applicants note that a final Office Action was mailed on January 4, 2007. Applicants filed an Amendment and Request for Continued

OIPE IAP12
MAR 19 2008
PATENT & TRADEMARK OFFICE

Examination (RCE), together with a request for a three-month extension of time on June 25, 2007. Applicant believes that the patent term extension should therefore be **0 days.**

Basis for Adjustment

U.S. Filing Date:	February 23, 2005
First Office Action:	June 30, 2006
	PTO Delay of 68 Days
Applicants' Response:	September 14, 2006
Second Office Action:	January 4, 2007
Applicants' Response:	June 25, 2007
	Applicant Delay of 82 Days

Conclusion

Total PTO Delay:	**68 Days**
Total Applicant Delay:	**82 Days**
Patent Term Adjustment =	**0 Days**

Should there be any questions concerning the foregoing, the Examiner is invited to telephone Applicant's undersigned attorney.

Respectfully submitted,

Douglas M. McAllister
Attorney for Applicant(s)
Registration No. 37,886
Lipsitz & McAllister, LLC
755 Main Street, Bldg. No. 8
Monroe, CT 06468
(203) 459-0200

Date: March 17, 2008
ATTORNEY DOCKET NO.: HOE-870

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Gerald L. Olson	: DECISION ON REQUEST FOR
Patent Number	: 7625166	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **531** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SEP 2 8 2009

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brian K. Lathrop
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

In re Application of	:
Kodama et al.	:
Serial No.: 11/065,545	:DECISION ON PETITION
Filed: 25 February 2005	:
Attorney Docket No.: 47635-00230-00	:

This letter is in response to the Petition filed under 37 C.F.R. 1.144 filed on 10 March 2009 requesting review and withdrawal of the restriction requirement mailed on October 3, 2007. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed under 35 U.S.C. 111(a) and as such is subject to US restriction practice.

On 26 June 2007, the examiner mailed a restriction requirement in which the original claims 1-29 were divided into 2 groups, with each group being subject to a further restriction to a combination of at least one oligonucleotide selected from the group consisting of SEQ ID Nos 1-64, 71 and 72. The examiner stated that the elected claims will only be examined to the extent that they require the particular selected combination of SEQ ID Nos.

On 20 July 2007, Applicants elected Group 1, claims 1-23 and 27-29, and SEQ ID Nos 7-9, 22-24 and 71 with traverse.

On 9 October 2007, the examiner mailed to applicants a non-final Office action, in which the examiner considered the traversal and made the restriction requirement FINAL. The examiner pointed out claims which do not require the elected sequences and stated that these claims were withdrawn from examination. Claims 3-21 and 23-29 were withdrawn from consideration.

Claims 1, 2 and 22 were examined with respect to the combination of elected sequences. The following grounds of rejection were applied:

> Claims 1, 2 and 22 were rejected under 35 U.S.C. § 112, first paragraph, for lack of adequate written description;
>
> Claims 1 and 2 were rejected under 35 USC 102(b) as being anticipated by Wilson; and
>
> Claims 1, 2 and 22 were rejected under 35 USC 102(b) as being anticipated by Suzuki.

On 15 January 2008, applicants filed a response to the Office action.

On 29 March 2008, the examiner considered the response and set forth a Final Office action. The examiner withdrew portions of claim 30 as being directed to a non-elected invention. Claim 30 was then objected to for reciting non-elected subject matter. Claims 30 and 31 were rejected under 35 USC 103(a) as being unpatentable over Wilson, Beimfohr, GenBank GI:2266677 and GenBank GI:15383733.

On 19 September 2008, applicants filed a response and a request for continued examination.

On 17 November 2008, the examiner mailed a non-final Office action in which Claim 30 was then objected to for reciting non-elected subject matter. Claims 30 and 31 were rejected under 35 USC 103(a) as being unpatentable over Wilson, Beimfohr, GenBank GI:2266677 and GenBank GI:15383733.

On 10 March 2009, applicants filed a response to the Office action along with this petition under consideration.

DISCUSSION

The petition and file history have been carefully considered, with respect to the claims as currently pending.

The petition requests that (1) the Office cannot rely upon 35 USC 121 to require applicants to amend the claims to the elected species; that (2) the objection of claim 30 should be withdrawn; that (3) the species election should be replaced with a provisional election pursuant to MPEP 803.02 and that (4) the Office should state that it will examine no more than what it considered to be reasonable number of species to determine patentability of the claims.

Applicants are correct that (1) the Office cannot rely upon 35 USC 121 to require applicants to amend the claims to the elected species; that (2) the objection of claim 30 for reciting non-elected subject matter should be withdrawn. In view of the examination practice set forth for Markush claims, (discussed in greater detail below) Applicants are entitled to retain non-elected subject matter recited in the alternative of a Markush claim. Also, in view of linking claim practice (MPEP 809) and rejoinder practice set forth in MPEP 821.04, applicants are entitled to

retain linked inventions which are encompassed by a linking claim and species as encompassed by a generic claim.

Second, applicants are correct that (3) the sequence election requirement should be replaced with a provisional election pursuant to MPEP 803.02. It is noted that the restriction requirement improperly required restriction amongst alternatives recited in a Markush type claim. This is not correct. MPEP 803.02 provides the following guidance for Markush claims:

> A Markush-type claim may include independent and distinct inventions. This is true where two or more of the members are so unrelated and diverse that a prior art reference anticipating the claim with respect to one of the members would not render the claim obvious under 35 U.S.C. 103 with respect to the other member(s). In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

For these reasons, the restriction requirement to elect a single combination of sequences is withdrawn and has been replaced with the following requirement to elect a single combination of sequences for examination.

Third, the petition requests that (4) the Office should state that it will examine no more than what it considered to be reasonable number of species to determine patentability of the claims.

In response, it is noted that MPEP 803.02 sets forth guidance concerning the examination of examination required for Markush claims:

> In applications containing a Markush-type claim that encompasses at least two independent or distinct inventions, the examiner may require a provisional election of a single species prior to examination on the merits. An examiner should set forth a requirement for election of a single disclosed species in a Markush-type claim using form paragraph 8.01 when claims limited to species are present or using form paragraph 8.02 when no species claims are present. See MPEP § 808.01(a) and § 809.02(a). Following election, the Markush-type claim will be examined fully with respect to the elected species and further to the extent necessary to determine patentability. If the Markush-type claim is not allowable, the provisional election will be given effect and examination will be limited to the Markush-type claim and claims to the elected species, with claims drawn to species patentably distinct from the elected species held withdrawn from further consideration.

Moreover, MPEP 803.04 sets forth guidance concerning the extent of examination (with regard to the prior art) required for claims directed to combinations of DNA sequences:

> The presence of one novel and nonobvious sequence within the combination will render the entire combination allowable. The combination will be searched until one nucleotide sequence is found to be allowable. The order of searching will be chosen by the examiner to maximize the identification of an allowable sequence. If no individual nucleotide sequence is found to be allowable, the examiner will consider whether the combination of sequences taken as a whole renders the claim allowable.

Finally, in the first Office action on the merits, examiner has provided rejections on every claim demonstrating that the elected method of using the elected sequence was not patentable. Because claims to the elected invention are not yet in condition for allowance and because no generic claim is in condition for allowance, any request for rejoinder at this time is considered premature. Should all claims to the elected invention and elected combination of DNA sequences become allowable, the examiner would then extend search and examination of the Markush claim per MPEP 803.02 or per MPEP 803.04.

DECISION

The petition is **GRANTED** for the reasons set forth above.

The objection to claim 30 for reciting non-elected subject matter is withdrawn.

On 20 July 2007, Applicants elected Group 1, claims 1-23 and 27-29, and the combination of SEQ ID Nos 7-9, 22-24 and 71 with traverse. The examiner has since searched and examined on the merits the oligonucleotides of SEQ ID NOs 7-9, 22-24 and 71. The two claims pending are now drawn to these seven sequences. All other claims have been cancelled. No other sequences are being claimed. For these reasons, the restriction requirement to a single combination of sequences has been withdrawn. Claims 30 and 31 will be examined on the merits.

The application will be forwarded to the examiner for consideration of the papers filed 10 March 2009 and for preparation of an Office action consistent with this decision, following the guidance in MPEP 803.02 with respect to examination practice for Markush claims.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Michael Wityshyn
Acting Director, Technology Center 1600

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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Shiri Kadambi	: DECISION ON REQUEST FOR
Patent Number	: 7643481	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 05/17/2010

Applicant : Shiri Kadambi
Patent Number : 7643481
Issue Date : 01/05/2010
Application No : 11/065,562
Filed : 02/25/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1333** 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/065,568	02/24/2005	Hideaki Shinomi	JP920040007US1	2315

27431 7590 12/08/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER
WANG, JUE S

ART UNIT	PAPER NUMBER
2193	

MAIL DATE	DELIVERY MODE
12/08/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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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SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Hideaki SHINOMI.
Application No. 11/065,568
Filed: February 24, 2005
For: PROGRAM ANALYSIS DEVICE, ANALYSIS METHOD AND PROGRAM OF 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 request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed November 11, 2008, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/065,581	02/25/2005	Heui-Sang Yoon	P57175	2659

8439 7590 08/12/2009
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON, DC 20006-1004

EXAMINER
HODGE, ROBERT W

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
08/12/2009	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
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Alexandria, VA 22313-1450
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wk

Mailed : AUG 12 2009

In re Application of
Yoon et al.
Serial No. 11/065,581
Filed: February 22, 2005
For: MOLD FOR SECONDARY BATTERY AND METHOD FOR MOLDING SECONDARY BATTERY USING THE SAME

DECISION ON PETITION

This is a decision on the PETITION FILED UNDER 37 CFR 1.144 and 1.181 TO WITHDRAW THE RESTRICTION REQUIREMENT made January 29, 2009.

In the restriction mailed on January 29, 2009, the Examiner set forth a two-way requirement.

I. Claims 1-4 and 13-16, drawn to a mold, classified in class 264, subclass 271.1

II. Claims 5-12 and 17-20, drawn to a method, classified in class 29, subclass 623.4.

The Examiner further required an election of species if applicant elected Group II.

Applicants traversed the election requirement and provisionally elected Group II, claims 5-12 and 17-20 and two subspecies.

Applicant asserts that the subject matter of the two groups and two species overlap and must be simultaneously examined; that the mandatory fields of search are coextensive and that the restriction requirement is being imposed merely for administrative convenience.

The Examiner's position is that the inventions of group I and II are not related. Group I is drawn to a mold whereas the invention of Group II is drawn to a method for forming a battery. Applicants have provided a partial list of recent patent issues which were classified in both class 264 and class 29 and thereby demonstrates the lack of serious burden upon the examiner.

The Examiner indicated that the combined number of references in classes 29 and 264 were approximately 357,872 and that combined total number of references for class 29/623.4 and 264/271.1 was 1,499. The classification of inventions in both cases are indicative of the inventions claimed by the applicant and further do not encompass the consideration of other subclasses that must be searched to find the dependent limitations.

A review of the record indicates that the position of the examiner is reasonable for the reasons given in the examiner's response to the traversal, viz., a serious burden does indeed exist.

DECISION

Accordingly, the petition to withdraw the restriction requirement is **DENIED**.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

Robert E. Bushnell
ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW
SUITE 600
WASHINGTON DC 20006-1004

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 2/10/09

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/065584 Patent No.: 7444571B1

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: The applicant's amendments to the patent are consistent with the original allowed patent disclosure.

/John P Trimmings/
Primary Patent Examiner

2117
Art Unit

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Alexandria, VA 22313-1450
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Guerin & Rodriguez, LLP
5 Mount Royal Avenue
Mount Royal Office Park
Marlborough, MA 01752

COPY MAILED

JAN 18 2008

OFFICE OF PETITIONS

In re Application of	:	
John W. Gray	:	
Application No. 11/065,622	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO WITHDRAW
Attorney Docket No. CUT-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 27, 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 G. Guerin 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 John W. Gray at the address indicated below.

There is an outstanding Office action mailed November 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **John W. Gray, President**
Cutting Edge Sports
1 Bryant Street
Woburn, MA 01801

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/065,622	02/24/2005	John W. Gray	CUT-001

CONFIRMATION NO. 2081

POWER OF ATTORNEY NOTICE

32836
GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

OC000000027781554

Date Mailed: 01/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2007.

- 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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BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN, CT 06840

Mail Date: 04/21/2010

Applicant	: Tadashi Tamura	: DECISION ON REQUEST FOR
Patent Number	: 7664326	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,626	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **944** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/7/07

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction on Patent No.: 7087591

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 -- 8A22
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:

Please enter as per applicant's request.

FREDERICK KRASS
SUPERVISORY PATENT EXAMINER

SPE

Art Unit

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JJGJR.: 09-04

Paper No: __

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

COPY MAILED

SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 11/065,636	:	ON PETITION
Filed: 23 February, 2005	:	
Attorney Docket No. SSI-05900	:	

This is a decision on the petition filed on 13 July, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 18 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 13 July, 2005, Petitioner filed the instant petition and fee (and request and fee for extension of time) with, *inter alia*, a statement by Thomas B. Haverstock (Reg. No. 32,571), a statement of Melody K. Dunkleberger, averred to be the administrative coordinator of the alleged assignee, along with an oath/declaration containing the signature of named co-inventor Hillman (for himself and on behalf of) but without the signature of named non-signing co-inventor Richard Brown (Mr. Brown), and an averment that Mr. Brown's signature could not be obtained on the oath/declaration, however, there the clear evidence of the transmittal letter is that Ms. Dunkleberger transmitted to Mr. Brown only the oath/declaration and not the entire application (description, claims, abstract, drawings), as required, to be presented to the non-signing inventor.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including

> the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

> in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands clearly evidences the failure to transmit the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Out of an abundance of caution and because, *inter alia*, a property right is in question, Petitioner is requested to submit a copy of the transmittal letter with a renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 02-06

Paper No: __

HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

COPY MAILED

FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 11/065,636	:	ON PETITION
Filed: 23 February, 2005	:	
Attorney Docket No. SSI-05900	:	

This is a decision on the petition filed on 21 October, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 February, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 18 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 13 July, 2005, Petitioner filed the original petition and fee (and request and fee for extension of time) with, *inter alia*, a statement by Thomas B. Haverstock (Reg. No. 32,571), a statement of Melody K. Dunkleberger, averred to be the administrative coordinator of the alleged assignee, along with an oath/declaration containing the signature of named co-inventor Hillman (for himself and on behalf of) but without the signature of named non-signing co-inventor Richard Brown (Mr. Brown), and an averment that Mr. Brown's signature could not be obtained on the oath/declaration,

however, the petition was dismissed on 9 September, 2005, because the clear evidence of the transmittal letter was that only the oath/declaration were transmitted to Mr. Brown and not the entire application (description, claims, abstract, drawings), as required, to be presented to the non-signing inventor;

- with the instant petition Petitioner evidences that he now has cured that former deficiency, but that the non-signing inventor has failed to submit a signed oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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United States Patent and Trademark Office
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JJGJR.: 02-06

Paper No: __

RICHARD BROWN
1101 WEST GRANITE STREET
GILBERT, AZ 85234

COPY MAILED

FEB 0 9 2006

OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 11/065,636	:	COMMUNICATION
Filed: 23 February, 2005	:	
Attorney Docket No. SSI-05900	:	

Dear Richard Brown:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application,

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE CA 94086

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 12 2005

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

In re application of	:	**DECISION ON PETITION**
David S. Breed et al.	:	**TO MAKE SPECIAL**
Application No. 11/065,668	:	**(APPLICANT'S AGE)**
Filed: February 24, 2005	:	
For: METHOD FOR AIRBAG INFLATION CONTROL	:	

This is a decision on the petition submitted on July 18, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a copy of Mr. Breed's passport indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dew: 08/08/05

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Paper No. None

FROST BROWN TODD LLC
2200 PNC Center
201 E. 5th Street
Cincinnati OH 45202

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SEP 28 2007

OFFICE OF PETITIONS

In re Application of
H. Eugene Toennisson et al.
Application No. 11/065,673
Filed: February 24, 2005
Attorney Docket No.
26283/0527800
Title: PROXIMITY HAND RAIL
MONITOR FOR A MOVING WALKWAY

DECISION ON TWO PETITION
PURSUANT TO 37 C.F.R.
§§ 1.181(A) AND 1.137(b)

This is a decision on the submission of July 25, 2007 entitled "Communication," which is properly treated as a petition pursuant to 37 C.F.R. § 1.181(a), to withdraw the holding of abandonment. This is also a decision on the petition pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application, filed on August 15, 2007.

BACKGROUND

The above-identified application became abandoned for failure to

1 A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

reply in a timely manner to the Notice Requiring Excess Claims Fees (notice), mailed October 18, 2006, which required $600 for the "excess claim(s) filed on 10-6-06" and set a one-month period for reply. On November 6, 2006, Applicant submitted a letter entitled "Communication," asserting that no excess fees were owed. The required funds were not included with this submission. No further response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 19, 2006. A notice of abandonment was mailed on July 18, 2007.

RELEVANT STATUTE AND PORTIONS OF THE C.F.R.

35 U.S.C. § 133 sets forth, *in toto*:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 C.F.R. § 1.134 sets forth, *in toto*:

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. §§ 1.135(a) and (b) set forth, in toto:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

ANALYSIS OF THE PETITION PURSUANT TO RULE § 1.181(a)

The showing in the present petition is not sufficient to withdraw the holding of abandonment.

Petitioner has asserted that the Office mailed the notice in error, and that no excess claim fees were due. Consequently, Petitioner submitted a letter to the Office on November 6, 2006, setting forth his opinion on this matter, but did not include the required fees. Petitioner has explained that since he did not hear back from the Office, he

> assumed that the 'excessive claim fee' had been accepted as an error on part (sic)of the USPTO and that the application continued under prosecution[2].

With this petition, Petitioner has reiterated his belief that no fees were due.

Petitioner's contentions regarding the propriety of the requirement for the excess claim fees are not well taken. **The propriety of a rejection, objection, or other requirement set forth in an Office action is not relevant to an applicant's burden to timely prosecute the application to avoid abandonment**[3].

If Applicant believed that the requirement for additional fees had been made in error, the proper course of action would have been to submit these fees (so as to comply with the requirements of 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b)) in order to fully reply to said notice, and seek a refund of these fees either concurrently or subsequently. However, Petitioner failed to fully respond to the notice, and presumed that his arguments had persuaded the Office to withdraw the requirement, even though he did not receive a mailing that withdrew said notice.

It follows that Petitioner has not established that the holding of abandonment should be withdrawn. It follows that the petition pursuant to 37 C.F.R. § 1.181(a) must be **DISMISSED**.

ANALYSIS OF THE PETITION PURSUANT TO RULE § 1.137(b)

Petition fee requirement

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. §1.17(m) as being $1500 for a large entity and $750 for a small entity. Petitioner has indicated that a petition

---

2 Petition, page 2. The electronic file has been reviewed, and it is noted that the file does not contain any subsequent mailing that withdrew this notice and the requirement set forth therein.
3 See 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b), reproduced above.

fee was not included. Therefore, requirement number (2) of Rule § 1.137(b) has not been met.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. § 711.03(c)(III)(B)[4]

Regarding the waiver of the petition fee[5], the request cannot be granted, as petition fees are jurisdictional. Petitioner will note that 37 C.F.R. § 1.137(b) specifically sets forth that a "grantable petition pursuant to this paragraph must be accompanied by…the petition fee…".

In view of the above, this petition pursuant to 37 C.F.R. § 1.137(b) 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 1.137(b) ". This is not a final agency action within the meaning of 5 U.S.C § 704.

Put simply, no further consideration will be given to petitioner's contentions regarding the propriety of the requirement for $600 that was set forth in the notice of October 18, 2006, unless the application is restored to pending status, via the withdrawal of the holding of abandonment or the revival of this application.

Petitioner should note that any subsequent petition that includes arguments directed towards the rejection, objection, or other requirement set forth in the notice of October 18, 2006

---

4 "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. §1.137 lacking the requisite petition fee."

5 The second page of the petition includes the text "no Petition fee should be assessed applicants (sic) to correct the USPTO error."

and fails to include the $600 fee required by this notice may be considered to be a deliberate decision to intentionally delay the presentation of a grantable petition, which constitutes an absolute bar to revival[6].

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[7], hand-delivery[8], or facsimile[9]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[10].

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[11]. 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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6 Should Petitioner desire to continue to maintain that the requirement set forth in the notice was improper, he should do so separately from the renewed petition, so as to comply with Rule § 1.4(c).
7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
9 (571) 273-8300- please note, this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
11 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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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

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201 E. 5th Street
Cincinnati OH 45202

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DEC 21 2007

OFFICE OF PETITIONS

In re Application of
H. Eugene Toennisson et al.
Application No. 11/065,673
Filed: February 24, 2005
Attorney Docket No.
26283/0527800
Title: PROXIMITY HAND RAIL
MONITOR FOR A MOVING WALKWAY

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.137(b)

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b)[1], filed November 26, 2007, to revive the above-identified application.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the Notice Requiring Excess Claims Fees (notice), mailed October 18, 2006, which required $600 for the "excess claim(s) filed on 10-6-06" and set a one-month

1 A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

period for reply. On November 6, 2006, Applicant submitted a letter entitled "Communication," asserting that no excess fees were owed. The required funds were not included with this submission. No further response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 19, 2006. A notice of abandonment was mailed on July 18, 2007.

A petition pursuant to 37 C.F.R. § 1.181(a) was filed on July 25, 2007, and a petition pursuant to 37 C.F.R. § 1.137(b) was filed on August 15, 2007. Both of these petitions were dismissed via the mailing of a decision on September 28, 2007.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the present petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in this renewed petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this renewed petition.

With this renewed petition, Petitioner has submitted the required reply, the petition fee, and a statement that is being construed as the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

CONCLUSION

The Technology Center will be notified of this decision. The Technology Center's support staff will process the communication regarding the excess claim fees that was submitted concurrently with this renewed petition.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

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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 any further action(s) of Petitioner.

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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SEP 2 6 2008

In re Application of	:	
IZATT, David et al.	:	
Application No. 11/065,688	:	DECISION ON PETITION
Filed: February 24, 2005	:	TO WITHDRAW
Attorney Docket No. **0A757-74579**	:	FROM RECORD
	:	

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 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by David Mixon. on behalf of all attorneys of record who are associated with customer No. 32009. All attorneys/agents associated with the Customer Number 32009 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 23, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **DAVID IZATT**
1525 PEREIMTER PARKWAY
SUITE 225
HUNTSVILLE AL 35806

cc: **MARC WINN**
1349 WEST PEACHTREE STREET
SUITE 1740
ATALANTA GA 30309

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: David Izatt	: DECISION ON REQUEST FOR
Patent Number	: 7644436	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,688	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **986** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Jedediah A. Burmahin	:	
Application No. 11/065,691	:	DECISION ACCORDING STATUS
Filed: February 24, 2005	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 051-05	:	

This is in response to the Petition Under 37 CFR 1.47(b), filed May 27, 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 **GRANTED**.

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.

Petitioner has shown that the non-signing inventor, Jedediah A. Burmanhin, refuses to join in the application.

As provided in Rule 1.47(b), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. 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 in due course.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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MR. JEDEDIAH A. BURMAHIN
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YORBA LINDA, CA 92886

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SEP 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Jedediah A. Burmahin	:	
Application No. 11/065,691	:	LETTER
Filed: February 24, 2005	:	
Attorney Docket No. 051-05	:	

Dear Mr. Burmahin:

You are named as the 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 the inventor.

As the 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) 272-3204. 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).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103

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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K&L Gates LLP
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON, MA 02111-2950

Mail Date: 04/21/2010

Applicant	: Lisa McKerracher	: DECISION ON REQUEST FOR
Patent Number	: 7572913	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/065,696	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **928** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO CA 95014

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SEP 25 2008

In re Application of
Hu, et al.
Application No. 11/065,699
Filed: February 23, 2005
Attorney Docket No. 889712-33

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed June 21, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on August 22, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of 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 2629 for examination in due course.

K. A. McLaughlin

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
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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
11/065,699	02/23/2005	Darwin Hu	889712-33

CONFIRMATION NO. 3840

26797
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

NONPUBLICATION RESCISSION LETTER

OC000000032237769

Date Mailed: 09/23/2008

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 01/01/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/kathornton mclaughl/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101