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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Application of
KOCHI, TETSUNOBU, et al.
Application No. 11/076,961
Filed: March 11, 2005
Attorney Docket No. 03500.109232

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 26, 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 Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth A. Wieder

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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

JUL 8 2005

In re Application of: Miyashita, Kiyoshi
Application No. 11/076986
Filed: 03/11/2005
Attorney Docket No. **036830.05**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR δ 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR δ 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed 06/13/2005, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Howard Goldberg, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APR 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Afa Kehaati Palu, et al.	:	
Application No. 11/076,992	:	DECISION ON PETITION
Filed: March 9, 2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 10209.621	:	

This is a decision on the petition, filed February 23, 2009, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

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

the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. The petition does not comply with item (1).

A review of the chain of prior applicants cited in the amendment filed February 23, 2009 indicates that the present application claims priority to Application No. 11/360,550 filed February 23, 2006. However, Application No. 11/360,550 is not a prior filed application. Consequently, the present application cannot claim benefit thereto. Each intermediate prior application must have specific reference to other prior applications.

Before the petition can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and 1.78(a)(6), an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) are required.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/077,008	03/11/2005	Yoshihiko Okamoto	501.28170C18

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

DATE MAILED: March 2, 2007

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 March 1, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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JUN 2 2005

Bernard S. Hoffman
Suite 7F
460 Old Town Road
Port Jefferson Station, NY 11776

In re application of	:	**DECISION ON PETITION**
Christine Riehl	:	**TO MAKE SPECIAL**
Application No. 11/077,021	:	**(ACCELERATED**
Filed: March 10, 2005	:	**EXAMINATION)**

For: KNOCKDOWN, PORTABLE, NON-INTIMIDATING, AND STABLE PEN FOR COMFORTABLY, CONFORMINGLY, SUPPORTINGLY, AND ENTERTAININGLY ACCOMODATING AN INFANT THEREIN

This is in response to the petition filed on May 04, 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
(517) 272-6587

KJD/slb: 05/25/05

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Kuroda et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,572,060	:	PATENT TERM ADJUSTMENT
Issue Date: 08/11/2009	:	and
Application No. 11/077029	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 03/11/2005	:	CERTIFICATE OF CORRECTION
Attorney Docket Number: KURODA6	:	

This is a decision on the petition filed on October 7, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy-eight (1178) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seventy-eight (1178) days is **GRANTED to the extent indicated herein.**

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 Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred eighty-eight **(1188)** days.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,572,060 B2

DATED : August 11, 2009

INVENTOR(S) : Kuroda 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 873 days.

Delete the phrase "by 873 days" and insert – by 1188 days--

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BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

Mail Date: 04/21/2010

Applicant	: Koji Kuroda	: DECISION ON REQUEST FOR
Patent Number	: 7572060	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1503** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JOSEPH E. MUETH, ESQ.
100 E. CORSON STREET, SUITE 300
PASADENA, CA 91103-3842

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OFFICE OF PETITIONS

In re Application of	:	
Suzanne ZEBEDEE, et al	:	
Application No. 12/077,046	:	DECISION ON PETITION
Filed: March 14, 2008	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 323-100US D-C	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 14, 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 statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

This application is being referred back to the Office of Patent Application Processing for processing. This application will be accorded "special" status when pre-examination processing is done.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482-0980

In re Application of	:	
Norman A. Lopez et al	:	
Application No. 11/077,053	:	ON PETITION
Filed: March 10, 2005	:	
Attorney Docket No. ITDE-PSSD115US	:	

This is a decision on the petition filed April 3, 2008 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 in a timely manner in reply to the Notice of Allowance mailed November 30, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 1, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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CRYSTAL CITY STATION
ARLINGTON VA 22215-0035

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JUL 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Victor Manuel Quinones	:	
Application No.: 11/077084	:	ON PETITION
Filing or 371(c) Date: 03/11/2005	:	
Attorney Docket Number:	:	
11060.22	:	

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 June 3, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed July 9, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on October 10, 2008. A Notice of Abandonment was mailed January 26, 2009.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1794 for processing of the Amendment filed with the petition in the normal course of business.

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

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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TECHNOLOGY CENTER 3600

MALLINCKRODT & MALLINCKRODT
10 Exchange Place
Suite 510
Salt Lake City, UT 84111

In re application of Ajit Singh Gill Application No. 11/077,091 Filed: March 10, 2005 For: PIPE COUPLING	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on March 10, 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. Ajit 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: 04/13/05

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BOAZ BARRY GROMAN
7485 MALIBU CRESCENT
BOCA RATON FL 33433

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Boaz Barry Groman
Application No. 11/077,098
Filed: March 10, 2005
Title of Invention: **PERTURBATION CONTROL METHOD FOR AIR ABRASIVE INSTRUMENTS**

This is a decision on the petition filed November 20,2006 to withdraw the holding of abandonment for the above-identified application which is being treated under 37 CFR 1.181.

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

The application was held abandoned on June 7, 2005, for failure to timely submit a timely response to the Notice to File Missing Parts mailed April 4, 2005, which set a two month period for reply. Accordingly, a Notice of Abandonment was mailed September 21, 2006.

Petitioner asserts that a response was filed and, in support, petitioner has submitted, *inter alia*, a copy of the response in the form of a transmittal which was to accompany the additional fees required, as noted in the Notice to File Missing Parts, with a certificate of mail date of May 4, 2005.

The evidence submitted corroborates a timely response to the Notice to File Missing Parts. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged. However, the replacement checked for the additional fees, noted in the Notice to File Missing Parts mailed April 4, 2005 have been applied.

This matter will be referred to the Office of Patent Application Processing for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE CA 95134

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MAR 0 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Land et al.	:	
Application No. 11/077,105	:	DECISION ON PETITION
Filed: March 9, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 102US1/NAT	:	

This is a decision on the petition, filed February 16, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 30, 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. On July 11, 2005, the Office mailed a Notice Regarding Rescission of Nonpublication Request. The application published on January 26, 2006.

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

This matter is being referred to Technology Center Art Unit 2881 for examination in due course.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JOHN T. WINBURN
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NEW BERN NC 28562

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AUG 2 3 2006

OFFICE OF PETITIONS

In re Application of	:
Kuttalek, Edmund	:
Application No. 11/077,136	: DECISION GRANTING PETITION
Filed: march 3, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P01015WOUS	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/EP2003/010012, filed on September 9, 2003).

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed international application has been included in an Application Data Sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 365(c) to the above-noted, prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 3634 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 365 to the prior-filed international application.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

COPY MAILED

JUL 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Shinotsuka, Sukeyuki	:	
Application No. 11/077,137	:	DECISION ON PETITIONS
Filed: March 7, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. LA-7272-146/10501690	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 7, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/JP03/011139, filed September 1, 2003, as set forth in the concurrently filed Application Data Sheet (ADS).

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

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed PCT application under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

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

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

This matter is being to referred Technology Center Art Unit 2622 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/077,137	03/07/2005	2622	1130	LA-7272-146/10501690	3	3

CONFIRMATION NO. 5331

CORRECTED FILING RECEIPT

OC000000025040609

167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

Date Mailed: 07/26/2007

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)

Sukeyuki Shinotsuka, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number **000167**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP03/11139 09/01/2003

Foreign Applications

JAPAN 2002-302357 09/09/2002

If Required, Foreign Filing License Granted: 04/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/077,137

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Image sensor

Preliminary Class

348

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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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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AUG 2 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Giraud et al.	:	
Application No. 11/077,138	:	DECISION GRANTING PETITION
Filed: March 3, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00991WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/EP2003/009241, filed on August 20, 2003).

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed international application has been included in an Application Data Sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 365(c) to the above-noted, prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

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

This application is being forwarded to Technology Center Art Unit 1761 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 365 to the prior-filed international application.

Liana Chase

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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LOS ANGELES CA 90071

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JUL 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Yonezawa et al.	:	
Application No. 11/077,139	:	DECISION ON PETITIONS
Filed: March 7, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 7272-144/10501285	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 7, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/JP03/011140, filed September 1, 2003, as set forth in the concurrently filed Application Data Sheet (ADS).

The petition to expedite under 37 CFR 1.182, filed July 20, 2007, is hereby **GRANTED**.

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

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

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

All requirements being met, the petition to accept an unintentionally delayed claim for benefit of priority to the prior-filed PCT application under 35 U.S.C. §§ 120 and 365(c) is **GRANTED.**

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

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

This matter is being to referred Technology Center Art Unit 2859 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/077,139	03/07/2005	2859	1130	LA-7272-144/10501285	7	1

CONFIRMATION NO. 8873

CORRECTED FILING RECEIPT

OC000000025018845

167
FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

Date Mailed: 07/25/2007

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)

Satoshi Yonezawa, Sayama-shi, JAPAN;
Hirashi Ueda, Sayama-shi, JAPAN;

Assignment For Published Patent Application

Honda Giken Kogyo Kabushiki Kaisha

Power of Attorney: The patent practitioners associated with Customer Number **000167**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/JP03/11140 09/01/2003

Foreign Applications

JAPAN 2002-319028 09/26/2002

If Required, Foreign Filing License Granted: 04/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/077,139

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MECHANICAL SCRIBING APPARATUS WITH CONTROLLING FORCE OF A SCRIBING CUTTER

Preliminary Class

033

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

Mail Date: 05/21/2010

Applicant	: Young Suk Chung	: DECISION ON REQUEST FOR
Patent Number	: 7644516	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/077,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **572** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRIAN R. RAYVE
161 MAPLE DRIVE
PARK CITY, UT 84098

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OFFICE OF PETITIONS

In re Application of	:	
Dolores M. Rumczikas et al	:	
Application No. 11/077,165	:	DECISION GRANTING PETITION
Filed: March 9, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 051-1-001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 21, 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** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 5, 2005, which required the submission of fees totaling $940 ($150 for the basic filing fee, $375 additional claim fees, $65 surcharge fee, $250 application search fee, and $100 examination fee). The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 6, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) **a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional;** and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by

37 CFR 1.137(d).[1] 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).

The instant petition lacks item (3). Accordingly, before revival of this application can be effected, a statement in compliance with 37 CFR 1.137(b)(3) must be submitted.

Upon granting of the petition to revive, the petition to make special submitted on filing will be decided on its merits. Petitioner may wish to notify the undersigned of the filing of the renewed petition so that this file can be taken up for action expeditiously.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] This application does not require a terminal disclaimer as a condition for revival.

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

BRIAN R. RAYVE
161 MAPLE DRIVE
PARK CITY, UT 84098

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Dolores M. Rumczikas et al :
Application No. 11/077,165 : DECISION GRANTING PETITION
Filed: March 9, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 051-1-001 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 22, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 5, 2005, which required the submission of fees totaling $940 ($150 for the basic filing fee, $375 additional claim fees, $65 surcharge fee, $250 application search fee, and $100 examination fee). The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 6, 2005.

A decision was mailed on September 15, 2006 dismissing the petition filed on February 21, 2006 because the petition did not contain the required statement of unintentional delay as required by 37 CFR 1.137(b)(3).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply submitting the items required by the Notice of May 5, 2005, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 5, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF BRIAN R. RAYVE
P O Box 11586
SALT LAKE CITY, UT 84147-0586

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Dolores M. Rumczikas	:	
Application No. 11/077,165	:	DECISION ON PETITION
Filed: March 9, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 051-1-001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 9, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a "Declaration of Advanced Age," which states that applicant Dolores M. Rumczikas was born on December 14, 1929 and is "seventy-five (75) years of age" at the time of filing of the instant petition. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application will, in due course, be referred to the Technology Center Art Unit 3654 for action on the merits commensurate with this decision.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 22 2007

OFFICE OF PETITIONS

BRIAN R. RAYVE
161 MAPLE DRIVE
PARK CITY UT 84098

In re Application of	:
Hogge	: DECISION ON PETITION
Application No. 11/077,166	:
Filed: March 9, 2005	:
For: 047-1-001	:

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed March 31, 2005. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed December 8, 2005.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081014

DATE : October 16, 2008

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction on Patent No.: 7,403,784

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:

Request for Certificate of Correction filed 9/9/2008 has been considered and approved.

SPE: /GEORGE ENG/ **Art Unit** 2617

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DIW Mar-08

KUBOVCIK & KUBOVCIK
SUITE 1105
1215 SOUTH CLARK STREET
ARLINGTON VA 22202

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MAR 05 2008

OFFICE OF PETITIONS

In re Application of	:	
Hiejima et al.	:	DECISION ON PETITION TO
Application Number: 11/077182	:	WITHDRAW HOLDING OF
Filing Date: 03/11/2005	:	ABANDONMENT
Attorney Docket Number: NPR-167	:	

This is a decision on the petition filed on January 29, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a response to the non-final Office action mailed on January 12, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on January 10, 2008.

Petitioner asserts that the non-final Office action mailed on January 12, 2007, was never received.

In the absence of any irregularity in the mailing of the non-final Office action mailed on January 12, 2007, there is a strong presumption that the non-final Office action mailed on January 12, 2007, was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action mailed on January 12, 2007, was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §

711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the non-final Office action mailed on January 12, 2007, was properly mailed to petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action mailed on January 12, 2007, on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioners' counsel, registered patent practitioner Ronald J. Kubovcik, asserts that a search of the records, including the mail records, docketing records, file jacked and the application contents, indicates that the Office action was not received. A copy of the docket records maintained by counsel as well as the file jacket have been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Notice. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center Art Unit 3767 for remailing of the non-final Office action mailed on January 12, 2007. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
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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HOUSTON ELISEEVA
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
MANN, Wolfgang	:	
Application No. 11/077,193	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. **1372-13**	:	FROM RECORD
	:	

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 14, 2008.

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

A review of the file record indicates that the power of attorney to HOUSTON ELISEEVA has been revoked by the assignee of the patent application on August 01, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DILWORTH & BARRESE, LLP**
333 EARLE OVINGTON BLVD.
SUITE 702
UNIONDALE NY 11553

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

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

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Patent No. 7,456,199	:	
Mammen et al.	:	DECISION DISMISSING
Application No. 11/077,222	:	REQUEST FOR
Issue Date: November 25, 2008	:	RECONSIDERATION OF
Filed: March 10, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: P-175-US1	:	UNDER 37 CFR § 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on November 25, 2008, requesting that the patent term adjustment indicated in the above-identified patent be changed from three hundred and ninety-six (396) days to six hundred and fifty-six (656) days.

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

On November 25, 2008, the above-identified application matured into U.S. Patent No. 7,456,199, with a revised patent term adjustment of 396 days. On November 25, 2008, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee[1]) within two months of the issue date of the patent. Patentee argues, citing Wyeth v. Dudas, Civ. Action No. 07-1492 ((D.D.C. September 30, 2008), that it is entitled to an additional 260 days of patent term adjustment under 37 C.F.R. §1.702(b).

At issue is the calculation of the period of adjustment pursuant to 35 U.S.C. § 154(b)(1)(B) and (2)(A). 35 U.S.C.

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

§ 154(b)(1)(B) provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
>
> (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.
>
> (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.

It is undisputed that the instant patent issued 3 years and 260 days after its filing date. The application was filed under 35 U.S.C. 111(a) on March 10, 2005, and the patent did not issue until November 25, 2008, three years and 260 days later. It is noted that no request for continued examination was filed.

The Office properly did not enter any additional patent term adjustment for the Office taking in excess of three years to issue the patent. Pursuant to the limitations of paragraph 2 of 35 U.S.C. §154(b), 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, it was determined that the period of delay of 260 days attributable to the delay in the issuance of the patent overlapped with the adjustment of 411 days attributable to grounds specified in § 1.702(a)(1). Thus, at issuance, no additional period of adjustment was entered. Accordingly, the patent issued with a revised patent term adjustment of 396 days (411 days of Office delay reduced by 15 days of applicant delay[2]).

Patentee argues that the period of adjustment pursuant to 37 CFR §§ 1.702(b) and 1.703(b), is 260 days, and that the USPTO has not shown any PTA based on 37 CFR §§ 1.702(b) and 1.703(b)[3]. In short, patentee does not agree with the Office's determination that the period of delay of 260 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 411 days attributable to grounds specified in § 1.702(a)(1). Patentee maintains that the total period of Office delay is the sum of the period of Three Years Delay (260 days) and the period of Examination Delay (411 days) less the period of Applicant Delay (15 days)[4]. Patentee contends that the period of Three Years Delay and Examination Delay do not overlap.

As such, patentee asserts entitlement to a patent term adjustment of 656 days (260 + 411 reduced by 15).

Patentee's interpretation of the period of overlap has been considered and not found to be persuasive. Patentee's calculation of the period of overlap is inconsistent with the

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[2] The period of reduction of 15 days for applicant delay is not in dispute.

[3] See petition, page 2, paragraph 1(A).

[4] Although patentee states that they are not aware of any circumstances during the prosecution of the above-identified patent that constitute a failure to engage in reasonable efforts to conclude processing or examination (See petition, page 3, paragraph 1 (C), patentee also acknowledges that the period of reduction of 15 days for applicant delay is correct (See petition, page 2, paragraph 1(A)).

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[5]

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. Patentee is incorrect to the extent that they treat the relevant period as starting on March 10, 2008, the date that is 3 years after the actual filing date of the application.

Rather, 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, March 10, 2005 to November 25, 2008. During that time, the issuance of the patent was delayed by 411 days, not 411 + 260 days. The Office took 14 months and 411 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a)(1) within the prescribed timeframes. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Nonetheless, given the initial 411 days of Office delay and the 15 days of applicant delay and the time allowed for processing and examination, the patent issued, three years and 260 days after its filing date. 411 days of patent term adjustment not 411 and 260 days was properly entered since the period of delay of 260 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 411 days attributable to grounds specified in § 1.702(a)(1). 411 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 260 days over three years. Accordingly, at issuance, the Office properly entered 0 additional days of patent term

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[5] 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).

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[6] (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 issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[6] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

(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[7]:

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 national stage commenced under 35 U.S.C. 371(b) or (f) in

---

7 (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.

an international application and ending on the date a patent was issued, but not including the sum of the following periods[8]:

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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[8] (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.

adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 396 days. The patent properly issued with this indication contained thereon, and no further action is 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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OFFICE OF PETITIONS

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

In re Application	:	
Mammen, et al.	:	
Application No. 11/077,224	:	PATENT TERM ADJUSTMENT
Filed: March 10, 2005	:	
Dkt. No.: P-182-US1	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)." This matter is being properly treated as a timely filed application for patent term adjustment pursuant to 37 CFR 1.705(b). The application for patent term adjustment was timely filed March 12, 2009. The issue fee payment was filed March 13, 2009.

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed December 15, 2008, indicates a patent term adjustment to date of 370 days. Applicants do not contest the adjustment accorded to date of 370 days (adjustments totalling 417 days less reduction totalling 47 days).

Instead, applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

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

The application file is being forwarded to the Office of Patent Publication 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 the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Patent No. 7,569,588
Issued: August 4, 2009
Application No. 11/077,224
Filed: March 10, 2005
Dkt. No.: P-182-US1

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on September 21, 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 882 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The period of "A" delay totals 439 days. The period of "B" delay, which commenced March 11, 2008 and ended August 4, 2009, totals 512 days. The period of applicant delay totals 47 days. The period of "A" and "B" overlap totals 27 days (from July 14, 2009 to August 4, 2009 and from June 20, 2008 to June 24, 2008). Thus, the net adjustment totals 877 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

The Office acknowledges the previous 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 Corrections 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 877 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,569,588 B2

DATED : **August 4, 2009, 2009** **DRAFT**

INVENTOR(S) : Mammen, 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 465 days

Delete the phrase "by 465 days" and insert – by 877 days--

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

Mail Date: 04/30/2010

Applicant	: Mathai Mammen	: DECISION ON REQUEST FOR
Patent Number	: 7569588	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/077,224	: OF WYETH
Filed	: 03/10/2005	:
		:

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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Patrick S. Yoder
Fletcher Yoder
P.O. Box 692289
Houston, TX 77269-2289

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OFFICE OF PETITIONS

In re Application of	:	
Christopher L. Strong	:	
Application No. 11/077,273	:	DECISION ON PETITION
Filed: March 9, 2005	:	TO WITHDRAW
Attorney Docket No. 12554.61/YOD/SWA ITWO:006	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Leslie B. Overman does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Leslie B. Overman
4350 La Jolla Village Drive
San Diego, CA 92122

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

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OFFICE OF PETITIONS

In re Application of	:	
SAINT-VINCENT, et al.	:	
Application No. 11/077,274	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. 1816.004US1	:	FROM RECORD
	:	

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**.

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/client has requested file be transferred to another attorney", does not meet any of the conditions set forth in 37 CFR 10.40.

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

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on September 1, 2006 does not include one of the above two options.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HOVEY WILLIAMS LLP**
2405 GRAND BLVD., SUITE 400
KANSAS CITY, MO 64108

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/077,274	03/10/2005	Stephen Saint-Vincent	1816.004US1

CONFIRMATION NO. 4964

OC000000021509660

21186
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 12/07/2006

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/01/2006 . The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Denny Wingchung Lau	: DECISION ON REQUEST FOR
Patent Number	: 7573439	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,299	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

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OFFICE OF PETITIONS

In re Application of Hirsbrunner et al. :
Application No. 11/077,301 :
Filing Date: March 10, 2005 :
Attorney Docket No. CE11223R :

Decision on Petition

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

The petition is **granted**.

Facts:

A final Office action was mailed March 14, 2007.

The Office action set a shortened statutory period for reply of three (3) months.

A reply and a request for a two-month extension of time were filed July 30, 2007.

The examiner determined the reply was improper and an advisory action was mailed August 14, 2007.

Petitioner did not file a new reply and the application became abandoned as of August 15, 2007.

The instant petition, Request for Continued Examination, and submission were filed November 30, 2007.

On January 11, 2008, the Office mailed a non-final Office action in response to the papers filed November 30, 2007.

Discussion:

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,540. Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination and submission.

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 2617 will be informed of the instant decision and will restart the time period for reply to the non-final Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Taubenheim et al.	:	DECISION ON PETITION
Application Number: 11/077311	:	
Filing Date: 03/10/2005	:	
Attorney Docket Number:	:	
CML02256M	:	

This is a decision on the petition filed on February 14, 2008, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

This application became abandoned on January 19, 2008, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on October 18, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on February 13, 2008.

Receipt of the issue and publication fees filed with the present petition is acknowledged.

The application is being referred to the Office of Data Management for processing into a patent.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 802333
DALLAS, TX 75380

In re Application of	:	
Kulvir singh Bhogal, et al.	:	
Application No. 11/077,328	:	DECISION ON PETITION
Filed: March 10, 2005	:	
Attorney Docket No. AUS920040934US1	:	

This is a decision on the petition, filed March 22, 2010, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of June 10, 2009, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before December 24, 2009.

A review of the record shows that a response to the June 10, 2009 Office action was unnecessary as the Examiner gave no new grounds of rejection in the Examiner's Answer. The abandonment of this application was in error. Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 10, 2009 is hereby **withdrawn** and the **application restored to pending status**.

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Board of Appeals and Interference at their hotline 571-272-9797.

This application is being referred to back to the Board of Appeals and Interference for appropriate action in the normal course of business.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND OH 44115-2191

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OFFICE OF PETITIONS

In re Application of	:	
MORIYA et al.	:	
Application No. 11/077,335	:	DECISION ON PETITION
Filed: 03/10/2005	:	
Attorney Docket No. YAMAP0388USK	:	

This is a decision on the petition under 37 CFR 1.181, filed April 24, 2007, to withdraw the holding of abandonment for the above-identified application.

This application was held abandoned for failure to respond timely to the nonfinal Office Action mailed on April 19, 2006, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned and a Notice of Abandonment was mailed on April 18, 2007.

Petitioners assert that they filed a timely reply to the nonfinal Office action via EFS on July 19, 2006. In support of the assertion, petitioners included a copy of their Electronic Acknowledgment Receipt.

Upon a review of the record, the Office has located the reply filed on July 19, 2006, in response to the nonfinal Office action. Accordingly, the petition is **granted**.

The Notice of Abandonment is hereby withdrawn. The application is restored to pending status in view of the fact that a response was timely filed and received on July 19, 2006.

The matter is being referred to the Technology Center Art Unit 2627.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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COOK, ALEX, McFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
SUITE 2850
200 WEST ADAMS STREET
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Kaoru Tsuchiya	: DECISION ON REQUEST FOR
Patent Number	: 7619258	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,347	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
MAMMEN et al. :
Application No. 11/077,349 :
Filed: 03/10/2005 :
Attorney Docket No. P-185-US1 :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705) filed November 6, 2008. Applicant requests that the determination of patent term adjustment be corrected from 411 days to 762 days assuming that the patent issues on Tuesday, February 24, 2009. 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).

Applicant states that the instant application and any patent issuing from this application are subject to a terminal disclaimer; however the terminal disclaimer does not specify an expiration date.

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 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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OFFICE OF PETITIONS

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

In re Patent No. 7,524,962	:	
MAMMEN et al.	:	
Issue Date: April 28, 2009	:	DECISION ON REQUEST FOR
Application No. 11/077,349	:	RECONSIDERATION OF
Filed: March 10, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. P-185-US1	:	

This is in response to the "RESUBMISSION OF REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED ON FACE OF PATENT (37 C.F.R. § 1.705)" filed May 28, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from four hundred fifty-two (452) days to eight hundred thirty-two (832) 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 452 days.

On April 28, 2009, the above-identified application matured into U.S. Patent No. 7,524,962 with a revised patent term adjustment of 452 days. The Office determined that the 414 days[1] of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[2] overlap with the 452 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (4),[3] accorded during the pendency of the application. As

[1] As of the issuance of the patent on April 28, 2009, the application was pending three years and 414 days.

[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).

such, the Office allowed entry of only the period of adjustment of 452 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 0 days of applicant delay, the patent issued with a revised patent term adjustment of 452 days.

On May 28, 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 maintain that they are entitled to an additional 380 days of patent term adjustment under 37 CFR 1.702(b). Patentees aver that the correct determination of patent term adjustment is 832 days. Patentees assert:

> Pursuant to 37 C.F.R. §1.702(b), if the USPTO fails to issue a patent within three years of the actual filing date of the application, Applicants will be entitled to an additional PTA 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) and ending on the issue date.
>
> The date of filing this application under 35 U.S.C. §111(a), is March 10, 2005, and the date that is three years after this date, is March 10, 2008. U.S. Patent No. 7,524,962 issued on April 28, 2009, which is 421 days beyond the March 10, 2008 date. Since 41 days of PTA have already been added due to a delay in issuance, Applicants

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(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;

. . .

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

> are entitled to an additional 380 days of PTA (421 less 41).

Request dated 05/28/09, p. 2.

The Office notes that patentees incorrectly calculated the period of adjustment under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) ("Three Years Delay"). Furthermore, patentees used the incorrect Three Years Delay period in calculating the requested patent term determination. Pursuant to 37 CFR 1.703(b), the correct period of adjustment is 414 days (not 421 as suggested by patentees), counting the number of days 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), March 11, 2008, and ending on the date the patent issued, April 28, 2009.

Further, patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[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.

---

[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.

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).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the

period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on March 10, 2005, and ending on the date of issuance of the patent on April 28, 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) and (4), 452 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 414 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 414 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 452 days of patent term adjustment under 37 CFR 1.702(a)(1) and (4). Entry of both the 414 days and the 452 days is neither permitted nor warranted. 452 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 414 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 452 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e) on November 6, 2008. No additional fees are required.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/14/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11077349 Patent No.: 7524962 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.

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

Comments: _____

/Janet L. Andres/ SPE art unit 1625

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BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
John R. Ehrman et al.	:	
Application No. 11/077,352	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. POU920050001US1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 19, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant, John R. Ehrman, 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 2183 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Talalay et al.	:	DECISION ON PETITION
Application No. 11/077,362	:	TO WITHDRAW
Filed: March 11, 2005	:	FROM RECORD
Attorney Docket No. 046585-0151	:	

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, 2010.

The request is **APPROVED**.

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

The request was signed by Richard C. Peet on behalf of all attorneys/agents of record who are associated with Customer Number 22428. All attorneys/agents associated with Customer Number 22428 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Paul Talalay, at the address indicated below.

The application became abandoned for failure to timely respond to the Office action mailed October 19, 2009.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: PAUL TALALAY
5512 BOXHILL LANE
BALTIMORE MD 21210

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OFFICE OF PETITIONS

In re Application of :
Hiroshi Kadohira et al. :
Application No. 11/077,381 : ON PETITION
Filed: March 11, 2005 :
Attorney Docket No. 8215.145 :

This is a decision on the petition filed January 16, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on July 6, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed May 5, 2005, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 9, 2006.

The filing of the response to the Notice to File Missing Parts mailed January 16, 2006 is acknowledged. All other requirements having been met , this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Tonny Yu	: DECISION ON REQUEST FOR
Patent Number	: 7631044	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,384	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Kimes et al.	:	
Application No. 11/077387	:	
Filing or 371(c) Date: 03/10/2005	:	ON PETITION
Attorney Docket Number:	:	
81109520	:	

This decision is in response to the "Petition to Correct Full Name of Inventors and Priority Claim," filed February 29, 2008. The petition is properly treated under 37 CFR 1.182.

The petition is granted.

Applicant files the present petition to correct the names of several inventors, and to remove an inadvertently listed priority claim to a nonprovisional application[1].

37 CFR 1.67(a), Supplemental oath or declaration, states: "[t]he Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of § 1.63 or § 1.162 to correct any deficiencies or inaccuracies present in the earlier filed oath or declaration."

The MPEP 201.03, Correction of Inventorship in an Application, provides that "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee."

MPEP 605.04(b)

Applicant is further advised that

> Although 37 CFR 1.76 does not change the practice in MPEP § 201.03 and § 605.04(b) regarding correction of a typographical or transliteration error in the spelling of an inventor's name whereby all that is required is notification of the error to the Office, the Office strongly encourages the filing of an application data sheet or a supplemental

[1] The priority claim was properly made in the specification filed with the application on March 10, 2005.

application data sheet to correct a typographical or transliteration error in the spelling of an inventor's name. A supplemental oath or declaration is not required.
If applicant merely files a statement notifying the Office of the typographical or transliteration error in the spelling of an inventor's name without submitting an application data sheet or a supplemental application data sheet, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

MPEP 601.05

The petition is hereby **granted**.

The Supplemental Oath/Declaration has been entered and made of record, including the changes as set forth in the present petition. A Corrected Filing Receipt accompanies this Decision.

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

Derek L. Woods
Attorney
Office of Petitions

Enclosures: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/077,387	03/10/2005	3681	1050	81109520	21	3

CONFIRMATION NO. 5941

CORRECTED FILING RECEIPT

28866
MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

OC000000029307219

Date Mailed: 04/09/2008

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

Applicant(s)

John W. Kimes, Wayne, MI;
Bernard J. Simon, Troy, MI;
Michael McDonough, Livonia, MI;
Xiaoyong Lu, Canton, MI;
Norman J. Bird, Plymouth, MI;
Lisa Waldock, Livonia, MI;

Power of Attorney: The patent practitioners associated with Customer Number 28866

Domestic Priority data as claimed by applicant

This application is a CIP of 10/899,918 07/28/2004 PAT 7,100,756

Foreign Applications

If Required, Foreign Filing License Granted: 04/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/077,387**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Overrunning clutch

Preliminary Class

192

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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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 08/02/2010

Applicant	: Homer M. Manning	: DECISION ON REQUEST FOR
Patent Number	: 7655968	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/077,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **276** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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The Law Offices of James J. Ralabate
5792 Main Street
Williamsville NY 14221

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AUG 08 2006

OFFICE OF PETITIONS

In re Application of	:	
John M. Sweet.	:	
Application No. 11/077,402	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. 08407-017001	:	FROM RECORD
	:	

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, 2005 & August 16, 2005.

The request is **NOT APPROVED**.

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

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

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

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: John M. Sweet
P.O. Box 253
Purcellville, Virginia 20134

cc: Xybernaut Corporation
Attn: Christopher Tucker, Patent Agent
Suite 550, Hyatt Plaza
12701 Fair Lakes Circle 22033

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APR 16 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

SQUIRE, SANDERS & DEMPSEY L.L.P
600 HANSEN WAY
PALO ALTO CA 94304-1043

In re Application of :
GANESAN, PRASANNA, et al. :
Application No. 11/077,411 : DECISION ON PETITION
Filed: March 9, 2005 : TO MAKE SPECIAL
For: **INSTANTANEOUS MEDIA -ON-DEMAND** :

This is a decision on the petition filed March 9, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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AUG 2 4 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

SQUIRE, SANDERS & DEMPSEY L.L.P.
600 HANSEN WAY
PALO ALTO, CA 94304-1043

In re Application of
Tony Miranz
Application No. 11/077,411
Filed: March 9, 2005

For: INSTANTANEOUS MEDIA-ON-DEMAND

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 20, 2005.
A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has met all of the above. Accordingly, the request is **GRANTED**.

Attorneys/agents associated in Customer No. 30256 to withdraw are withdrawn.

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

Kenneth A Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

Cc: JOE ZHENG
C/O TONY MIRANZ
WOND, INC.
516 BRYANT STREET
PALO ALTO, CA 94301

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.

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

COPY MAILED

JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Mammen et al.	:	
Application No. 11/077,436	:	ON APPLICATION FOR
Filed: March 10, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. P-184-US1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705) filed November 10, 2008. This request was recently forwarded to the undersigned for consideration. Applicant requests that the patent term adjustment be increased by three hundred seventy-three days, that is, from four hundred twenty-one (421) days to seven hundred ninety-four days (assuming the patent issues on March 17, 2009). Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue the patent.

Applicant acknowledges that the patent issuing from this application is subject to a terminal disclaimer.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

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

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

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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Paper No.

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

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,560,469	:	DECISION ON REQUEST
Mammen et al.	:	FOR
Issue Date: July 14, 2009	:	RECONSIDERATION OF
Application No. 11/077,436	:	PATENT TERM ADJUSTMENT
Filed: March 10, 2005	:	and
Atty Docket No. P-184-US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 29, 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 an additional 542 days to one thousand and twenty-four (1024) days.

In addition to requesting correction of the B delay, patentee timely disputes under the provisions of 37 CFR 1.705(d) the reduction of 36 days for applicant delay associated with the filing of a status letter after the mailing of the notice of allowance.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred seventy-six (876) days.

The over 3-year period is 491 days, not 484 days as stated by patentee. The patent issued on July 14, 2009, three years and 491 days after the application filing date, March 10, 2005. Further, patentee does not account for the fact that the 97 days accorded for Office delay pursuant to 1.702(a)(4) for delay in issuance of the patent after payment of the issue fee and satisfaction of all outstanding requirements overlaps with the "B" delay. Considering this 97 day overlap, the patent term

adjustment is properly increased by 394 (491 - 97) days for "B" delay to 876 days.

Patentee's other argument has been considered, but not found persuasive. 37 CFR 1.704(c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or
>
> (ii) Four months; and

Patentee does not dispute that the status letter was filed on June 9, 2009, after the mailing of the notice of allowance on September 9, 2008. Rather patentee argues that as the letter was filed several months after the expected patent issue date, no reduction is warranted. However, the filing of a status letter after the mailing of the notice of allowance is expressly stated as a circumstance that constitutes a failure to engage in reasonable efforts to conclude prosecution or examination within the meaning of 37 CFR 1.704(c)(10).

Moreover, the final rule states, and MPEP 2732 reiterates, that although the filing of a timely application for patent term adjustment is not a basis for a reduction,

> Other papers concerning patent term adjustment (e.g., status letters, untimely applications for patent term adjustment, requests for reconsideration of the Office's decisions on applications for patent term adjustment, petitions under 37 CFR 1.181, 1.182, or 1.183 concerning

> adjustment, requests for reconsideration of the Office's decisions on applications for patent term adjustment, petitions under 37 CFR 1.181, 1.182, or 1.183 concerning patent term adjustment, or miscellaneous letters concerning patent term adjustment), however, will be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under 37 CFR 1.704(c)(10).

Further to avoid this reduction, the final rule encourages applicants to either call the Office or use the PAIR system (http://pair.uspto.gov) to monitor the status of an application rather than submitting written status inquiries. In this instance with respect to the status of the previously-filed petition, the Office of Petitions has a helpdesk which was available and continues to be available for such telephone inquiries from 8:30 am - 5:00 pm, every weekday. *See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000).

Further, by Notice dated June 26, 2001, the Director clarified to applicants and patentees that the filing of a status inquiry is the type of paper that substantially interferes with the patent issuance process for which entry of a period of reduction is warranted. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). This clarification is also stated in MPEP 2732.

Patentee filed the status inquiry under circumstances that clearly constituted a failure to engage. Accordingly, entry of a period of reduction was proper and thus, will not be removed.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of

the above-identified patent is extended or adjusted by eight hundred seventy-six **(876)** days.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,560,469 B2

DATED : **July 14, 2009** **DRAFT**

INVENTOR(S) : Mammen 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 482 days

Delete the phrase "by 482 days" and insert – by 876 days--

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BAKER BOTTS, LLP
910 LOUISIANA
HOUSTON, TX 77002-4995

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AUG 20 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Saurabh Gupta et al :
Application No. 11/077,443 :
Filed: March 10, 2005 :
Attorney Docket No. 016295.1830 (DC-08091)

This is a decision on the petition, filed August 16, 2007, which is being treated as a petition 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 file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

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

This matter is being referred to Technology Center AU 2111 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

cc: Baker Botts LLP
Patent Department
98 San Jacinto Blvd., Suite 1500
Austin, TX 78701-4039

---

[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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KEATY PROFESSIONAL LAW CORPORATION
THOMAS S. KEATY
2533 AMERICAN WAY
PORT ALLEN LA 70767

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DEC 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Quick et al.	:	
Application No. 11/077,447	:	ON PETITION
Deposited: March 10, 2005	:	
Attorney Docket No.: Q05-2012	:	
Title: Apparatus for Wind	:	
Protection of Building Openings	:	
	:	

This is a decision on the petition to accord a filing date submitted October 31, 2005 (certificate of mailing October 24, 2005) requesting that the above-identified application be accorded a filing date of March 10, 2005.

Application papers in the above-identified application were deposited on March 10, 2005. However, on April 12, 2005 the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicant that the application papers had not been accorded a filing date because the application was deposited without drawings.[1] A Notice of Termination of Proceedings under 37 CFR 1.53(e)was mailed on August 24, 2005.

In response, 2 sheets of drawings, including figure 1-5 and the present petition were filed on October 31, 2005. The petition contends that the application as filed contained 2 sheets of drawings and was described in the original filed specification.

---

[1]See 35 U.S.C. 111(a)(4)

Petitioner further argues, in response to the Notice of Incomplete Nonprovisional Application, a reply was filed on May 2, 2005. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of "2 sheets drawings" on March 10, 2005. Petitioner has also provided a copy of the response to the Notice of Incomplete Nonprovisional Application which includes a postcard receipt filed on May 5, 2005. However, it should be noted, the May 5, 2005 response contained the incorrect application number. The response was directed to application 11/077,477 rather than application 11/077,4**4**7.

Nonetheless, Applicants' postcard receipt is prima facie[2] evidence that the drawings were received on March 10, 2005. A review of Office records shows the copy of the 2 sheets of drawings submitted on May 5, 2005 containing figures 1-5 has been located.

The petition is **Granted**. No petition fee has been charged and none is due.

All future correspondence should contain application no. **11/077,447**.

The application will be returned to the Office of Initial Patent Examination for further processing with a **filing date of March 10, 2005**, using the 2 sheets of drawings supplied on May 5, 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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[2]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. See MPEP 503.

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Paper No.

BUCHANAN INGERSOLL LLP
(INCLUDING BURNS, DOANE,
SWECKER & MATHIS)
12230 EL CAMINO REAL
SUITE 300
SAN DIEGO CA 92130

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Pawlak et al.	:	
Application No. 11/077,451	:	DECISION ACCORDING STATUS
Filed: June 28, 2000	:	UNDER 37 CFR § 1.47(a)
Attorney Docket No. 35.G2609	:	
	:	

This is in response to "PETITION UNDER 37 CFR §1.47(a)" filed July 14, 2005, which is being treated as a request pursuant to § 1.63(d) to accept in the above-identified application the declaration originally filed in prior application No. 09/306,474 accorded status under §1.47.

The instant application is a continuation of prior application no. 09/306,474, filed May 6, 1999 (now abandoned). In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in the prior application. However, petitioner has not, as required, submitted a copy of the decision granting a petition to accord §1.47 status to the prior application. See 37 CFR 1.63(d)(3). In this instance, the Office corrected the deficiency, making a copy of the decision granting §1.47 status in application No. 09/306,474 and placing it in the file of application No. 11/077,451. Petitioner is admonished that any such future petition filed without a copy of the prior decision may be dismissed.

Office records indicate that non-signing inventor Manneh did not subsequently join in the prior application or another

application of which the continuation application claims a benefit under 35 U.S.C. 120, 121, or 365(c). Applicants are required to inform this Office if these Office records are in error and the inventor has joined in such an application.

Petitioner is further advised that this decision does not make a determination of whether applicants have made a prior claim for the benefit of priority to prior application No. 11/077,451. Applicants may wish to verify the record, including their filing receipt, to determine if filing of a petition to accept unintentionally delayed claim for priority is warranted.

In view thereof, the declaration from prior application No. 09/306,474 is accepted and the application is hereby accorded Rule 1.47(a) status.

As notice regarding the filing of the prior application was given to the non-signing inventors, the Office will not repeat the notice to the non-signing inventors nor will the Office publish notice of the filing in the Official Gazette. See 37 C.F.R. §1.47(c).

Telephone inquiries concerning this matter may 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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LELAND K. JORDAN
548 HODGSON CIRCLE
WEST GROVE PA 19390

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MAY 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Dean SCHILLER, et al	:	
Application No. 11/077,476	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. LKJ-05-5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 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 Leland K. Jordan, the sole attorney of record. Leland K. Jordan has been withdrawn.

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

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

There are no Office actions pending at the present time.

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AUG 2 2 2008

OFFICE OF PETITIONS

LELAND K. JORDAN
548 HODGSON CIRCLE
WEST GROVE PA 19390

In re Application of	:	
Dean SCHILLER, et al	:	CORRECTED
Application No. 11/077,476	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. LKJ-05-5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 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 Leland K. Jordan, the sole attorney of record. Leland K. Jordan has been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DEAN SCHILLER
1268 GREENBROOK DRIVE,
DANVILLE, CA 94526

cc: FRANK BENINSIG
13389 FOLSOM BLVD., STE. 300
FOLSOM, CA 95630

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LELAND K. JORDAN
548 HODGSON CIRCLE
WEST GROVE PA 19390

In re Application of
Dean SCHILLER, et al
Application No. 11/077,476
Filed: March 10, 2005
Attorney Docket No. LKJ-05-5

CORRECTED
DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 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 Leland K. Jordan, the sole attorney of record. Leland K. Jordan has been withdrawn.

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

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DEAN SCHILLER
1268 GREENBROOK DRIVE,
DANVILLE, CA 94526

cc: FRANK BENINSIG
13389 FOLSOM BLVD., STE. 300
FOLSOM, CA 95630

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
BUEHRING, Hans-Joerg et al.	:	
Application No. 11/077,486	:	DECISION ON PETITION
Filed: March 09, 2005	:	TO WITHDRAW
Attorney Docket No. **584212000701**	:	FROM RECORD
	:	

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, 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 May 04, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

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

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/077,486	03/09/2005	Hans-Joerg Buehring	584212000701

CONFIRMATION NO. 6481

OC000000024501723

24197
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Date Mailed: 06/22/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2007.

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

Michelle R. Eason

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

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/077,486	03/09/2005	Hans-Joerg Buehring	584212000701

CONFIRMATION NO. 6481

OC000000024501667

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

Date Mailed: 06/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/04/2007.

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

Michelle R. Dixson

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

FORMER ATTORNEY/AGENT COPY

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Tonny Yu	: DECISION ON REQUEST FOR
Patent Number	: 7644127	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,506	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1081** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BOOTH UDALL PLC
1155 W RIO SALADO PKWY
SUITE 101
TEMPE AZ 85281

In re Application of	:	
Bona, et al.	:	
Application No. 11/077,508	:	ON PETITION
Filed: March 10, 2005	:	
Attorney Docket No. 1339.002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 18, 2008, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed November 13, 2007. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on February 14, 2008. A Notice of Abandonment was mailed on June 13, 2008.

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

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

The matter is being forwarded to Group Art Unit 3762 for consideration of the Amendment filed September 18, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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MADISON WI 53701-2113

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In re Application of	:	
Szybalski et al.	:	DECISION ON PETITION
Application No. 11/077,530	:	
Filed: March 10, 2005	:	
Attorney Docket No. 960296.00164	:	

This is a decision on the "Petition for Correction of Filing Date," filed June 6, 2005.

Applicant asserts that the USPTO incorrectly entered the domestic priority data for the above-identified application. Specifically, applicant states that on March 10, 2005, applicant filed the present application and, in the "Cross-Reference to Related Applications," claimed benefit of provisional applications, No. 60/551,724, filed March 10, 2004, and No. 60/551,771, filed March 24, 2004. Applicant avers that in the "Domestic Priority Data as Claimed by Applicant" section of the filing receipt dated April 8, 2005, the USPTO incorrectly recorded the filing date of provisional application No. 60/551,771 as March 11, 2004. Applicant requests that the Office correct the domestic priority data to indicate that provisional application No. 60/551,771 was filed on March 24, 2004, rather than March 11, 2004.

A review of the record indicates that applicant referenced an incorrect provisional application number in the "Cross Reference to Related Applications." Applicants incorrectly identified the prior-filed provisional application as No. 60/55<u>1</u>,771,[1] instead of No. 60/55<u>5</u>,771.

Accordingly, applicant caused the error in the domestic priority data for this application. Therefore, the petition is **dismissed.**

Although the benefit claim was filed within four months from the actual filing date of the present application, applicants referenced an incorrect application number. Therefore, if applicant wishes to correct the provisional application number, applicant must file a petition under 37 CFR

[1] Provisional application No. 60/551,771, entitled "PROCESS FOR FILLING, CAPPING AND COOLING FILLED CONTAINERS," was filed on March 11, 2004.

1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional application No. 60/555,771, filed on March 24, 2004.

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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The finance records indicate that the Office charged applicant's Deposit Account in the amount of $400.00 for filing the present petition. The petition fee is unnecessary and will be refunded to Deposit Account No. 17-0055.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Szybalski et al.	:	DECISION ON PETITION
Application No. 11/077,530	:	UNDER 37 CFR 1.78(a)(6)
Filed: March 10, 2005	:	
Attorney Docket No.	:	
960296.00164	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed September 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed Provisional Application No. 60/555,771, filed March 24, 2004.

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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The petition fails to comply with item (1) above.

37 CFR 1.78(a)(5)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of the series code and serial number).

With the instant petition, petitioner did not include a reference to the prior-filed Provisional Application No. 60/555,771, filed March 24, 2004 in an amendment to the first sentence of the specification following the title or in an Application Data Sheet ("ADS"). Accordingly, petitioner failed to comply with the requirements of 37 CFR 1.78(a)(5)(iii).

Before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and an amendment[1] or an ADS, containing a reference to the prior-filed Provisional Application No. 60/555,771 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: (571) 273-8300
Attn: Office of Petitions

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

Any questions concerning this matter may be directed to Petitions Attorney Christina Tartera Donnell at (571) 272-3211.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commission
for Patent Examination Policy

---

[1] *Note* 37 CFR 1.121 and 37 CFR 1.4(c).

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MADISON WI 53701-2113

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OFFICE OF PETITIONS

In re Application of	:	
Szybalski et al.	:	DECISION ON PETITION
Application No. 11/077,530	:	UNDER 37 CFR 1.78(a)(6)
Filed: March 10, 2005	:	
Attorney Docket No.	:	
960296.00164		

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed October 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional Application No. 60/555,771, filed March 24, 2004, and 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 the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). 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) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the

period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional Application No. 60/555,771, filed March 24, 2004, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains an adequate statement of unintentional delay.[1] Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

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

---

[1] 37 CFR 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Because the statement contained in the instant petition varies from the language required by 37 CFR 1.78(a)(6), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78(a)(6).

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 Petitions Attorney Christina Tartera Donnell at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1653 for appropriate action on the amendment submitted on October 26, 2005, including consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to prior-filed provisional Application No. 60/555,771, filed March 24, 2004.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO OH 43604

COPY MAILED

AUG 04 2008

OFFICE OF PETITIONS

In re Application of :
Kimes, et al. :
Application No. 11/077,531 : DECISION ON PETITION
Filed: March 10, 2005 :
Attorney Docket No. 81109963 :

This is a decision on the petition under 37 CFR 1.182, filed, March 20, 2008, to correct the spelling of the name of inventor "Bernie Simon" to – BERNARD J. SIMON--

The petition is **GRANTED**.

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

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

Applicants are strongly encouraged to use an application data sheet such that any patent to issue will reflect the correct spelling of the inventor's name. Without an application data sheet with the corrected spelling, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet

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

The matter is being referred to Technology Center 3600 for consideration of applicants' request to list the parent application under the section provided for a priority claim under 35 USC 120 on the declaration submitted herewith.

Alesia M. Brown
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
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/077,531	03/10/2005	3681	1000	81109963	18	3

CONFIRMATION NO. 7897

CORRECTED FILING RECEIPT

28866
MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA - FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

OC000000031354937

Date Mailed: 08/04/2008

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)

John Kimes, Wayne, MI;
Bernard J. Simon, Troy, MI;
Michael McDonough, Livonia, MI;
Xiaoyong Lu, Canton, MI;

Power of Attorney: The patent practitioners associated with Customer Number 28866

Domestic Priority data as claimed by applicant

This application is a CIP of 10/899,918 07/28/2004 PAT 7,100,756

Foreign Applications

If Required, Foreign Filing License Granted: 04/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/077,531**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Overrunning clutch

Preliminary Class

192

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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PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

Mail Date: 06/01/2010

Applicant	: Alan Roy Millner	: DECISION ON REQUEST FOR
Patent Number	: 7616462	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/077,555	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 08 2006

TECHNOLOGY CENTER 3600

PORTFOLIO STRATEGIES, PLLC
INTELLECTUAL PROPERTY
5440 31ST STREET, NW
WASHINGTON, DC 20015-1346

In re application of	:	**DECISION ON PETITION**
Stephen F. McDonald	:	**TO MAKE SPECIAL**
Application No. 11/077,557	:	**(ACCELERATED**
Filed: March 11, 2005	:	**EXAMINATION)**
For: METHOD OF FORMING CONCRETE AND	:	
AN APPARATUS FOR TRANSFERRING	:	
LOADS BETWEEN CONCRETE SLABS	:	

This is in response to the petition filed on May 18, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 06/01/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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LORRAINE M. DONALDSON
206 PROMONTORY DRIVE, EAST
NEWPORT BEACH, CA 92660

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APR 2 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey **Stinchcomb**	:	
Application No. 11/077,558	:	DECISION ON PETITION
Filed: March 09, 2005	:	
Attorney Docket No. HO30805-JS	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 06, 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 March 23, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (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 November 06, 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 $525.00 extension of time fee submitted with the petition on November 06, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to 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 3751 for appropriate action by the Examiner in the normal course of business on the reply received.

Cliff Butler

for David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHERR & NOURSE, PLLC
620 HERNDON PARKWAY
SUITE 200
HERNDON, VA 20170

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Liu, et al. :
Application No.: 11/077,560 : ON PETITION
Filed: March 10, 2005 :
Attorney Docket No. 405-0002 :

This is in response to the petition under 37 CFR 1.137(b) filed May 5, 2006.

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

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on April 8, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required a surcharge for the late payment of the filing fee, and payment of the filing fee, search fee, and examination fee. A complete response was not received within the allowable period, and the application became abandoned on June 9, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The required fees were received on May 5, 2006.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Marc Zabeau	: DECISION ON REQUEST FOR
Patent Number	: 7593818	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,564	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/09/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Selena Chan et al.	:	
Application No. 11/077,577	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. 21058/1206448-US2	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 2, 2007.

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

A review of the file record indicates that the power of attorney to Peter J. Davis with the firm of Morrison & Foerster has been revoked by the assignee of the patent application on June 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

A non-final rejection was filed on June 6, 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.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Raj S. Davè
Darby & Darby P.C.
1500 K Street, N.W.
Suite 250
Washington, DC 20005-1714

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/077,580	03/10/2005	Toru Hoshino	05157/HG

FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK NY 10001-7708

DATE MAILED: October 27, 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 26, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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APR 26 2005

TECHNOLOGY CENTER 3600

CONLEY ROSE, P.C.
P.O. Box 3267
Houston, TX 77253-3267

In re application of	:	**DECISION ON PETITION**
Hans Paul Hopper et al.	:	**TO MAKE SPECIAL**
Application No. 11/077,587	:	**(INFRINGEMENT)**
Filed: March 10, 2005	:	
For: WELL OPERATIONS SYSTEM		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 10, 2005 to make the above-identified application special.

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

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

The petition filed March 10, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on March 10, 2005.

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

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

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

SNM/pav: 04/13/05

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BRIDGESTONE AMERICAS HOLDING, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317

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APR 07 2009

OFFICE OF PETITIONS

In re Application of :
Xiaorong Wang, et al. :
Application No. 11/077,595 :
Filed: March 11, 2005 :
Attorney Docket No. P03105US2A :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2009, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 22, 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)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 23, 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.

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

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

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 February 25, 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 the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2193 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

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Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

Mail Date: 04/21/2010

Applicant	: Kenneth E. Carle	: DECISION ON REQUEST FOR
Patent Number	: 7642394	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,605	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : October 30, 2007

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No./11/077613 patent no.7264145

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

Should column 7, line 4 renumbering 11 claim be approved

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: Yes, col. 7, line 4 change should be made

SPE

3781

Art Unit

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

Mail Date: 04/21/2010

Applicant	: Mark Brister	: DECISION ON REQUEST FOR
Patent Number	: 7654956	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,643	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **970** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PATRICK W. RASCHE (22402)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Robert J. Klare	: DECISION ON REQUEST FOR
Patent Number	: 7588796	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **920** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: William Hsu	: DECISION ON REQUEST FOR
Patent Number	: 7580744	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1097** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR 10 2006

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GREENBERG TRAURIG, LLP
1900 UNIVERSITY AVENUE
FIFTH FLOOR
EAST PALO ALTO, CA 94303

In re application of Anju Agarwal et al. Application No. 11/077,655 Filed: March 10, 2005 For: METHODS AND APPARATUSES FOR PAY-PER-CALL ADVERTISING IN MOBILE/ WIRELESS APPLICATIONS	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 30, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(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**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 04/05/06

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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

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JUL 27 2006
OFFICE OF PETITIONS

In re Application of	:	
Lisa A G. Tweardy	:	
Application No. 11/077,675	:	ON PETITION
Filed: March 11, 2005	:	
Attorney Docket No. 1213-DIV-01	:	

This is a decision on the petition under 37 CFR 1.181, filed June 20, 2006, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed December 6, 2005. Accordingly, this application became abandoned on March 7, 2006. A Notice of Abandonment was mailed on June 14, 2006.

Petitioner asserts that a response to the December 6, 2005 Office action and a three (3) month extension of time were submitted timely on June 6, 2006. In support, petitioner has submitted a copy of the stamped postcard receipt that indicates the response was received by the USPTO on June 8, 2006. A review of the response, an amendment, filed June 8, 2006, indicates the response includes an executed Certificate of Mailing under 37 CFR 1.8 dated June 6, 2006. Additionally, petitioner has submitted a statement under 37 CFR 1.8(b)(3) by Deanna M. McGregor, the person who signed the Certificate of Mailing.

Accordingly, the petition is granted and the holding of abandonment is withdrawn.

This application is being forwarded to Technology Center 3700, for review of the response to the non-final Office action, filed June 8, 2006 (Certificate of Mailing date: June 6, 2006), *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
Office of the Deputy Commissioner
for Patent Examination Policy

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JENKINS, WILSON & TAYLOR, P.A.
3100 TOWER BLVD
SUITE 1400
DURHAM, NC 27707

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Tejani et al. :
Application No. 11/077,711 :
Filed: March 11, 2005 :
Attorney Docket No. 1322/169/2 :
For: Methods, Systems, and Computer :
Program Products for Providing :
Presence Gateway Functionality . . . :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed July 29, 2005.

The petition is **granted**.

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

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.

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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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Wei, et al.	:	
Application No. 11/077,716	:	DECISION GRANTING
Deposited: March 11, 2005	:	PETITION
Attorney Docket No. 233988	:	

This is a decision on the petition, filed May 11, 2005 (certificate of mailing date May 9, 2005), requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed April 7, 2005 and accordation of a March 11, 2005 filing date to the above-identified application.

The application was deposited on March 11, 2005. On April 7, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on March 11, 2005 because no drawing was present, as is required by 35 U.S.C. 113. In response to the Notice, petitioners timely filed, *inter alia*, the present petition.

It is noted that the above-identified application contains method claims. As stated in MPEP 601.01(f), it is the practice of the PTO 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.)

MPEP 601.01(f) also states that:

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

This application contains method claims. Therefore, the above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed April 7, 2005 was mailed in error with respect to the

lack of accordation of a filing date. The petition is **granted**. Pursuant to petitioners' authorization, deposit account no.12-1216 will be credited the $400.00 petition fee.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **March 11, 2005**.

It is noted that the entire contents of application no. 60/552,768 was incorporated by reference in the instant application upon initial filing. Additional figures may be entered by the primary examiner *without a petition* so long as the figures contain no new matter. Petitioners may wish to file an amendment to add Figures 1-4 from application no. 60/522,768 to the instant application prior to first action on the merits.

Telephone inquiries specific to 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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HOWARD A KENYON -- PATENT AGENT
19620 SOUTH JEFFREY CIRCLE
CERRITOS CA 90703

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NOV 20 2007
OFFICE OF PETITIONS

In re Application of :
Daniel Alvira :
Application No. 11/077,750 : DECISION ON PETITION
Filed: March 14, 2005 :
Title. Advanced Chess Game Called Magi Chess :

This is a decision on the petition, filed October 18 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 **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed October 24, 2006, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 21, 2007.

Petitioner asserts that a reply to the Notice was mailed on November 6, 2006.

A review of the record shows that a reply to the Notice of Non-Compliant Amendment received in the Office on November 13, 2006.

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

It should be noted the sufficiency of the reply submitted on November 13, 2006 will be determined by the Examiner.

This application is being referred to the Technology Center technical support staff of Art Unit 3711 for appropriate action in the normal course of business.

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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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED

MAR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark Brister, et al.	:	
Application No.: 11/077,759	:	ON PETITION
Filed: March 10, 2005	:	
Attorney Docket No.: DEXCOM.050A	:	

This is a decision on the petition, filed March 9, 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 January 15, 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 relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3735 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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SYRENTHIA RENEE RUSSELL
73 JACKSON STREET
EUFAULA, AL 36027

COPY MAILED

OCT 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Syrenthia Russell et al :
Application No. 11/077,761 : DECISION ON PETITION
Filed: March 11, 2005 :
For: MULTIPURPOSE HYGIENIC :
IMPLEMENT

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 17, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 17, 2006. Accordingly, the date of abandonment of this application is August 18, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. 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.:20091123

DATE : November 25, 2009

TO SPE OF : ART UNIT 3735

SUBJECT : Request for Certificate of Correction on Patent No.: 7,310,544

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: /Charles Marmor, II/ **Art Unit** 3735

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,310,544

APPLICATION NO. : 11/077,763

ISSUE DATE : December 18, 2007

INVENTOR(S) : Mark Brister; Paul V. Neale; Sean Saint; James R. Petisce; Thomas F. McGee, Daniel Shawn Codd; David Michael Petersen; Daniel S. Kline

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

Issued Patent		**Description of Error**
Column	**Line**	
First Page Col. 2 (Other Publications)	2	After "Dogs," delete ",".
Page 3 Col. 2 (Other Publications)	1	Delete "Hydrogels" and insert - - Hydrogel - -, therefor.
Page 3 Col. 2 (Other Publications)	4	Delete "Continous" and insert - - Continuous - -, therefor.
Page 3 Col. 2 (Other Publications)	10	Delete "Mearsurement" and insert - - Measurement - -, therefor.
Page 3 Col. 2 (Other Publications)	11	After "Levels," delete ",".
Page 3 Col. 2 (Other Publications)	18	Delete "Et al.," and insert - - et al., - -, therefor.
Page 3 Col. 2 (Other	20	Delete "Elecron" and insert - - Electron - -, therefor.

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.051A7

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,310,544

APPLICATION NO. : 11/077,763

ISSUE DATE : December 18, 2007

INVENTOR(S) : Mark Brister; Paul V. Neale; Sean Saint; James R. Petisce; Thomas F. McGee, Daniel Shawn Codd; David Michael Petersen; Daniel S. Kline

Publications)		
Page 3 Col. 2 (Other Publications)	21	Delete "Electronanalysis" and insert - - Electroanalysis - -, therefor.
Page 3 Col. 2 (Other Publications)	29	Delete "Membran," and insert - - Membrane, - -, therefor.
Page 3 Col. 2 (Other Publications)	47	Delete "System," and insert - - Systems, - -, therefor.
Page 3 Col. 2 (Other Publications)	49	Delete "A" and insert - - a - -, therefor.
Page 3 Col. 2 (Other Publications)	70	Delete "Biosensor" and insert - - Biosensors - -, therefor.
Page 4 Col. 1 (Other Publications)	1	Delete "Voltammetryand" and insert - - Voltammetry and - -, therefor.
Page 4 Col. 1 (Other Publications)	49	Delete "by" and insert - - of - -, therefor.
Page 4 Col. 2 (Other Publications)	22	Delete "Mar. 1-3, ." and insert - - Mar. 1990, 1-3. - -, therefor.
2	37	After "wherein" insert - - an - -.
3	44	Delete "assembly" and

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.051A7

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,310,544

APPLICATION NO. : 11/077,763

ISSUE DATE : December 18, 2007

INVENTOR(S) : Mark Brister; Paul V. Neale; Sean Saint; James R. Petisce; Thomas F. McGee, Daniel Shawn Codd; David Michael Petersen; Daniel S. Kline

	(Approx.)	insert - - subassembly - -, therefor.
6	5	Delete "and or" and insert - - and/or - -, therefor.
9	2	Delete "y=mx+b," and insert - - y=mx+b, - -, therefor.
9	52	Delete "In," and insert - - In - -, therefor.
13	5	After "employed" insert - - . - -.
27	50	After "York))" insert - - . - -.
28	32 (Approx.)	Delete "hydroxyethylmetharcrylate," and insert - - hydroxyethylmethacrylate, - -, therefor.
28	34 (Approx.)	Delete "nintinol," and insert - - nitinol, - -, therefor.
31	55-65	Delete "FIG. 7B illustrates the needle.....can be implemented." and insert the same on Col. 31, Line 54, after "insertion." as the continuation of the paragraph.
32	11	Delete "and or" and insert - - and/or - -, therefor.
36	6	After "pad" insert - - . - -.
36	30	Delete "8'is" and insert - - 8′ is - -, therefor.
40	4	Delete "and or" and insert - - and/or - -, therefor.
40	13	Delete "my" and insert - - may - -, therefor.
48	65	Delete "I-day," and insert - - 1-day, - -, therefor.
51	15-25	Delete "In one embodiment.....physiological time lag." and insert the same on Col. 51, Line 14, after "obtained)." as the continuation of the paragraph
52	33	Delete "y=mx+b." and insert - - y=mx+b. - -, therefor.
53	10	Delete " y=mx+b " and insert - - y=mx+b - -, therefor.
57	37-45	Delete "In one embodiment.....function accordingly." and insert the same on Col. 57,

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.051A7

OK TO ENTER: /C.M./

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,310,544

APPLICATION NO. : 11/077,763

ISSUE DATE : December 18, 2007

INVENTOR(S) : Mark Brister; Paul V. Neale; Sean Saint; James R. Petisce; Thomas F. McGee, Daniel Shawn Codd; David Michael Petersen; Daniel S. Kline

	(Approx.)	Line 36 (App.), after "data." as the continuation of the paragraph.
59	41	Delete " mx+b, " and insert - - mx+b, - -, therefor.
67	21	In Claim 1, delete "insertion" and insert - - insertion; - -, therefor.

6577473
020209

MAILING ADDRESS OF SENDER:

Rose M. Thiessen
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street, 14th Floor
Irvine, California 92614

DOCKET NO. DEXCOM.051A7

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 0 4 2008

OFFICE OF PETITIONS

Lawrence J. Shuropoff
16651 Topanga Lane
Delray Beach, FL 33484

In re Application of	:	
Rodger Walton	:	
Application No. 11/077,766	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on March 27, 2008.

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 Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rodger Walton
834 East Levi Lee Road
Warsaw, IN 46582

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Lawrence J. Shurupoff
16651 Topanga Lane
Delray Beach, FL 33484

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OFFICE OF PETITIONS

In re Application of	:	
Rodger Walton	:	
Application No. 11/077,766	:	CORRECTED DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a corrected 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 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Lawrence J. Shurupoff on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

The correspondence address has been changed to that of the applicant.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Rodger Walton
834 East Levi Lee Road
Warsaw, IN 46582

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/077,766	03/11/2005	Rodger Walton	

CONFIRMATION NO. 8960

POWER OF ATTORNEY NOTICE

Lawrence J. Shurupoff
16651 Topanga Lane
Delray Beach, FL 33484

OC000000030489812

Date Mailed: 06/16/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/21/2008.

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

/kainabinet/

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

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OFFICE OF PETITIONS

BRAD GOLDIZEN, P.C.
505 S. Independence Blvd., Suite 102
Virginia Beach, VA 2452

In re Application of :
RAMIREZ :
Application No. 11/077,770 : DECISION ON PETITION
Filed: March 12, 2005 : TO WITHDRAW
Attorney Docket No. RAM-001-05 : FROM RECORD

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**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Vincent Ramirez**
c/o Irma Calderon
99 Fort Washington Ave. Apt. 1DD
New York, NY 10032

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRADLEY D. GOLDIZEN
505 SOUTH INDEPENDENCE BOULEVARD, SUITE 102
VIRGINIA BEACH VA 23452

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NOV 2 7 2006

OFFICE OF PETITIONS

In re Application of

RAMIREZ
Application No. 11/077,770
Filed: March 12, 2005
Attorney Docket No. RAM-001-05

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 14, 2006.

The request is **APPROVED**.

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

The request was signed by Bradley D. Goldizen, the sole attorney of record. Bradley D. Goldizen 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 Vincent Ramirez at the address indicated below.

There is an outstanding Office action mailed October 3, 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: **VINCENT RAMIREZ**
c/o IRMA CALDERON
99 FORT WASHINGTON AVENUE
APARTMENT 1DD
NEW YORK, NY 10032

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
11/077,770	03/12/2005	Vincent Ramirez	RAM-001-05

CONFIRMATION NO. 8962

OC000000021363670

40816
BRADLEY D. GOLDIZEN
505 SOUTH INDEPENDENCE BOULEVARD, SUITE 102
VIRGINIA BEACH, VA 23452

Date Mailed: 11/27/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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THE LAW OFFICE OF KIRK D. WILLIAMS
PO BOX 39425
DENVER, CO 80239-0425

Mail Date: 04/21/2010

Applicant	: Keyur Patel	: DECISION ON REQUEST FOR
Patent Number	: 7599312	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,776	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **735** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 17 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

RON BATCHO
14318 STEWARTS BEND LANE
CHARLOTTE NC 28277

In re Application of:
Ronald F. Batcho, Sr.
Serial No.: 11/077,778
Filed: March 11, 2005
For: **WATER STREAM COMFORT INDICATION DEVICE**

DECISION *SUA SPONTE* WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A non-final Office action was mailed to the address of record on December 28, 2006 setting a shortened statutory period of 3 months. The Office action was returned to the Office as undeliverable on January 8, 2007. On July 2, 2007, the non-final action was remailed to the address of record, setting a shortened statutory period of 3 months. The Office action was again returned to the Office as undeliverable on July 10, 2007. No response to the outstanding non-final Office action has been received. A Notice of Abandonment has not been mailed.

A review of the file record also indicates that a Notice of Publication of Application mailed to the address of record on December 1, 2006 was returned to the Office as undeliverable. In an effort to contact the attorney of record, Mr. Frank Pita, the Office was informed that he was deceased. Therefore, the Office contacted the inventor to discuss MPEP 406. On March 3, 2008, applicant filed a "Change of Correspondence Address" and provided the Office with written notice of the death of his attorney. Although applicant filed the change of address request after the mailing of the non-final Office action, there is evidence in the application that applicant did not receive any of the previously mailed communications, including the non-final Office action mailed December 28, 2006 and remailed on July 2, 2007. Hence there was an irregularity in mailing of the Office action.

Accordingly, although no petition or request to withdraw the holding of abandonment has been filed, the holding of abandonment is hereby withdrawn.

Given the time lapse from the mailing of the non-final Office action until the date of this decision, the Office action mailed December 28, 2006 (and remailed July 2, 2007) is hereby vacated. This application is being returned to the examiner to update the search and to prepare a new copy of the Office action for mailing, as appropriate. The time period for response will be set to run three months from the mailing date of the new non-final action. The examiner is also

asked to provide a copy of the Notice of Publication of Application that was mailed December 1, 2006 to applicant with the new, updated Office action.

/Krista Zele/

Krista Zele
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
50 SOUTH SIXTH STREET - SUITE 1500
MINNEAPOLIS, MN 55402-1498

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JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of
David M. Dolezal, et. al.
Application No. 11/077,784
Filed: March 11, 2005
Attorney Docket No. 28,982-03
(186675/US/2)

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 27, 2006, to revive the above-identified application.

The application became abandoned for failure to fully respond to the Notice to File Corrected Application Papers mailed April 8, 2005. A Notice of Abandonment was mailed on September 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of $100 for additional claim fee(s); (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 02-02

OIPE JC105
AUG 25 2005
PATENT & TRADEMARK OFFICE

Paper No. 11

MORRIS E COHEN
LEVISOHN LERNER BERGER & LANGSAM
757 THIRD AVENUE
SUITE 2400
NEW YORK, NY 10017

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FEB 06 2002

OFFICE OF PETITIONS

In re Application of	:
Andrien, Banks, and Boyle	:
Application No. 09/532,724	: DECISION ACCORDING STATUS
Filed: 22 March, 2000	: UNDER 37 CFR 1.47(a)
Att'y Docket No. 840.081-US	:

This is in response to the petition filed under 37 CFR 1.47(a) on 30 October, 2000. The Office apologizes for the delay in responding to this petition and regrets any inconvenience caused petitioners.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, J. Fred Banks, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers. Specifically, petitioners have shown that a copy of the application papers were sent, via Federal Express, to the non-signing inventor by petitioners' registered patent attorney, Morris E. Cohen, but the non-signing inventor failed to return an executed 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.

BEST AVAILABLE COPY

Although the "Added Page to Combined Declaration" states that the petition fee of $130.00 accompanies the present petition. The petition fee was not located among the papers received with the petition on 30 October, 2000. In accordance with the authorization provided with the Small Entity status statement filed on 29 August, 2001, the petition fee will be charged to counsel's deposit account, No. 02-2105

The application is being forwarded to the Publishing Division to await petitioners' response to the Notice of Allowance mailed on 12 December, 2001.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

D Wood

Douglas I. Wood
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov
DIW 02-02

J. Fred Banks
2 Whitney Avenue
Old Saybrook, CT 06475

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FEB 0 6 2002

OFFICE OF PETITIONS

In re Application of
Andrien et al.
Application No. 09/532,724
Filed: 22 March, 2000
For: DIRECT FLOW INJECTION ANALYSIS NEBULIZATION ELECTROSPRAY AND APCI MASS SPECTROMETRY

Dear Mr. Banks:

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 Petitions Attorney Douglas I. Wood 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).

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

MORRIS E. COHEN
LEVISOHN LERNER BERGER & LANGSAM
757 THIRD AVENUE
SUITE 2400
NEW YORK, NY 10017

OIPE JC105
AUG 25 2005
PATENT & TRADEMARK OFFICE

RECEIVED IN THE UNITED STATES PATENT AND TRADEMARK OFFIC

In Re Application of B. A. Andrien, Jr. et al.
For Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry
Serial No. 09/532,724
Docket No.: 840.081

Kindly acknowledge receipt of:

Response to Notice to File Missing Parts (Small Entity), including Request for a 3-Month Extension of the Time Provided for Response; copy of Notice to File Missing Parts, Declaration and Power of Attorney for Patent Application with Added Page, Letter with Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor with exhibits, 2 Verified Statements of Small Entity Status; Recordation Form Cover Sheet/Patents Only, Assignment of Invention.
Check for $40.00.

Mailing Date: October 25, 2000 Critical Date: October 26, 2000

RECEIVED IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of B. A. Andrien, Jr. et al.
For Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry
Serial No. 09/532,724
Docket No.: 840.081

Kindly acknowledge receipt of:

Response to Notice to File Missing Parts (Small Entity), including Request for a 3-Month Extension of the Time Provided for Response; copy of Notice to File Missing Parts, Declaration and Power of Attorney for Patent Application with Added Page, Letter with Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor with exhibits, 2 Verified Statements of Small Entity Status; Recordation Form Cover Sheet/Patents Only, Assignment of Invention.
Check for $40.00.

Mailing Date: October 25, 2000 Critical Date: October 26, 2000

OIPE JC94
OCT 30 2000
PATENT & TRADEMARK OFFICE

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Small Entity)	Docket No. 840.081

In Re Application Of: **Bruce A. Andrien, Jr. et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
09/532,724	03/22/2000		

Invention: **Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry**

AUG 2 5 2005
PATENT & TRADEMARK OFFICE

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on **May 26, 2000**
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☒ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☒ 2 verified small entity declaration(s)
  - ☒ is/are attached.
  - ☐ was/were filed on _____
- ☐ A separate request for refund.
- ☒ Other (list):

Added Page to Combined Declaration and Power of Attorney for Signature by Joint Inventor(s) On Behalf of Nonsigning Inventor(s) Who Refuse(s) to Sign or Cannot Be Reached
Letter with Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor, with Four Exhibits
Recordation Form Cover Sheet/Patents Only
Assignment of Invention

P31SMALL/REV03

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533)(Small Entity)	Docket No. 840.081

In Re Application Of: **Bruce A. Andrien, Jr. et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
09/532,724	03/22/2000		

Invention: **Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Attention: Manager, Application Branch

☒ Completion of application fees as calculated below:

☒ Utility application filing fee		$355.00
☐ Design application filing fee		
☒ Total number of independent claims =	1	$40.00
☐ Total number of claims =	124	$936.00
☐ Multiple dependent claims		
☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath		$65.00
☐ Petition and fee for filing by other than all the inventors or a person not the inventor		
☐ Fee for processing an application filed with a non-English language specification		
☐ Fee for processing and retention of application		
Total completion of application fees		$1,396.00

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☒ Three months ☐ Four months ☐ Five months

from: July 26, 2000 (*Date*) until: October 26, 2000 (*Date*)

Total time extension fees $445.00

Total fees due $1,841.00

P31SMALL/REV02

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Small Entity)	Docket No. 840.081

In Re Application Of: **Bruce A. Andrien, Jr. et al.**

Serial No.	Filing Date	Examiner	Group Art Unit
09/532,724	03/22/2000		

Invention: **Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry**

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Attention: Manager, Application Branch

The fee of **$1,841.00** is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **02-2105**
  A duplicate copy of this sheet is enclosed.
- ☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **02-2105**
  A duplicate copy of this sheet is enclosed.

Signature

Dated: **October 25, 2000**

Peter L. Berger, Esq. (Reg. No. 24,570)
Levisohn, Lerner, Berger & Langsam
757 Third Avenue, Suite 2400
New York, New York 10017
Telephone: (212) 486-7272

I certify that this document and fee is being deposited on **October 25, 2000** with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature of Person Mailing Correspondence

Helen Rosenberg

Typed or Printed Name of Person Mailing Correspondence

cc:

P31SMALL/REV02

FORMALITIES LETTER

OC000000005142633

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Address: COMMISSIONER OF PATENT AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/532,724	03/22/2000	Bruce A. Andrien JR.	840.081-US

Morris E Cohen
Levisohn Lerner Berger & Langsam
757 Third Avenue
Suite 2400
New York, NY 10017

OIPE JC105
AUG 25 2005
PATENT & TRADEMARK OFFICE

Date Mailed: 05/26/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

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 statutory basic filing fee is missing.
  Applicant must submit **$ 690** *to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).*
- Total additional claim fee(s) for this application is $1950.
  - **$1872** for **104** total claims over 20.
  - **$78** for **1** independent claims over 3 .
- The oath or declaration is missing.
  A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.
- 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 balance due by applicant is $ 2770.**

A copy of this notice MUST be returned with the reply.

(P. Barnes)

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY

docketed
6/01/00

OIPE
AUG 2 5 2005
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. 840.081.

ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR SIGNATURE BY JOINT INVENTOR(S) ON BEHALF OF NONSIGNING INVENTOR(S) WHO REFUSE(S) TO SIGN OR CANNOT BE REACHED (37 CFR 1.47(a))

1. I am an above named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 CFR 1.47(a) on behalf of the nonsigning joint inventor, particulars for whom are:

Full name of first nonsigning inventor who

☒refuses to sign or cannot be found or reached

J. Fred Banks

Country of Citizenship of nonsigning inventor
U.S.A.

Last known address of nonsigning inventor
2 Whitney Avenue
Old Saybrook, CT 06475

2. Accompanying this declaration is:

(1) A STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR

(2) THE PETITION FEE OF $130.00 (37 CFR 1.17(i))

Name(s) of joint inventor(s) signing on behalf of nonsigning inventor	***Signature(s)***
Bruce A. Andrien, Jr.	Bruce A. Andrien Jr.
James Boyle	James Boyle

D:\ARCHIVE\Helen\Waldoor\840-081-added page.wpd

OIPE JC105
AUG 2 5 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:	Andrien, et al.
Serial No.:	09/532,724
Filing Date:	03/22/2000
For:	Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry
Attorney Docket No.:	840.081

Patent Application

STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 CFR 1.47)

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above identified patent application. This statement is being made by the available person having first hand knowledge of the facts recited therein.

I, Lisa Kisiel, Assistant to the President of Analytica of Branford, Inc., Craig M. Whitehouse, make this statement upon my own personal information and upon other information related to me. Mr. Whitehouse is currently out of the country.

The nonsigning inventor, J. Fred Banks commenced employment with Analytica on September 14, 1992 and left August 4, 1998. He signed an Employment Agreement (Exhibit 1), a copy of which is submitted herewith in which he agreed to sign his inventions to Analytica. Please note Paragraph 2.

On July 23, 2000, Morris Cohen wrote a letter to Mr. Banks at his last known address in Old Saybrook, Connecticut requesting he signing the appropriate documents. A copy of that letter is attached as Exhibit 2 and was sent by Federal Express. A copy of the Federal Express air bill is also enclosed as Exhibit 3. That Federal Express package was returned since Mr. Banks apparently no longer lived at that address.

Prior to that point, in early June 2000, I personally called Mr. Banks at his new employment and left a message. He called me back approximately June 9, 2000 and said that matters concerning his inventions and relationships with Analytica were being dealt with through his lawyer, David Goldberg. He requested that we then send

further information to his lawyer. The attorney for Analytica, William Butler, Esq. then contacted Mr. Banks' lawyer, seeking his assistance in having the appropriate documents signed. A copy of his letter is enclosed as Exhibit 4.

I am informed that Mr. Goldberg telephoned Mr. Butler and told him that he was no longer handling these matters from Mr. Banks.

Analytica of Branford, Inc. has been diligent in seeking to obtain the cooperation and signature of J. Fred Banks. Unfortunately, we have been unable to communicate with him directly or through his lawyer and find ourselves unable to obtain his signature.

In view of all out above efforts, it is quite apparent Mr. Banks does not intend to cooperate with Analytica, and we can not obtain his signature on these documents.

Respectfully submitted,

Identification of Person Making this Statement of Facts:

Name: Lisa Kisiel

Signature: Lisa Kisiel

Dated: 10/25/00

Address: Analytica of Branford, Inc.
29 Business Park Dr.
Branford, CT 06405

P:\ARCHIVE\Helen\Wpdocs\840-021-statement.wpd

OIPE JC105
AUG 2 5 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of: Andrien, et al.

Serial No.: 09/532,724
Filing Date: 03/22/2000

Patent Application

For: Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry

Attorney Docket No.: 840.081

Dear Sirs:

In response to the Notice to File Missing Parts, enclosed please find the documents signed by two of the co-inventors.

The third inventor, J. Fred Banks, has refused to sign the documents and Analytica of Branford, Inc. has been extremely diligent in seeking to obtain his cooperation and seeking to communicate with him. He has refused to communicate with Analytica and has refused to cooperate in the signing of the documents.

Submitted herewith is Mr. Banks' original employment agreement in which he had agreed to assign inventions to Analytica, so that Analytica seeking to obtain his signature is consistent with its proprietary and property rights and it is properly seeking to ask that these documents be accepted by the Patent Office in response to the Notice of May 26, 2000.

Please consider this submission as including a request for a three month extension of time. Accompanying this request is the extension fee of $445 as well as a response fee of $1,396, for a total of $1,841. This is because the application is for a small entity.

Dated: October 25, 2000

Respectfully submitted,

Peter L. Berger (Reg. No. 25,570)
Attorney for Applicant
LEVISOHN, LERNER, BERGER & LANGSAM
757 Third Avenue
New York, New York 10017
(212) 486-7272

CONFIDENTIALITY AGREEMENT

CONFIDENTIALITY AGREEMENT (the "Agreement"), dated as of 6/13/91 between Analytica of Branford, Inc. a Connecticut Corporation with offices at 29 Business Park Drive, Branford, Connecticut 06405 ("ABI") and Jon Frederick Banks, Jr., an individual, residing at 7813 Brownsboro Rd. Louisville, Ky 40241 (the "Employee").

W I T N E S S E T H

WHEREAS, the Company (as hereinafter defined) has Confidential Information (as hereinafter defined) which is of great value to the Company; and

WHEREAS, the Confidential Information has great value to the Company only so long as the Confidential Information remains confidential and proprietary to the Company; and

WHEREAS, the Company desires to take measures to prevent the disclosure or misuse of the Confidential Information by any of its employees; and

WHEREAS, the Employee desires to be employed or continue to be employed by the Company in a capacity in which the Employee may receive or contribute to the Confidential Information; and

WHEREAS, the Employee desires to give the Company certain assurances with respect to the protection of the Confidential Information from disclosure or misuse.

NOW, THEREFORE, in view of the foregoing premises, which are hereby incorporated as a part of this Agreement, and (i) in the case of the Company, in consideration of the covenants of the Employee herein contained, and (ii) in the case of the Employee, in consideration (a) of the covenants of the Company herein contained, (b) for ABI providing, or allowing an Affiliate of ABI to provide (as the case may be), employment or continued employment to the Employee (no matter how short a duration such employment may have), and (c) for ABI providing, or allowing an Affiliate of ABI to provide (as the case may be), the Employee with access to the Confidential Information, ABI and the Employee agree as follows:

1. Definitions. The following terms (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement shall have the following respective meanings:

Exhibit 1

The Term "Affiliate" shall mean any Person directly or indirectly controlling, controlled by, or under direct or indirect common control with another Person. A Person shall be deemed to control a corporation if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such corporation, whether through the ownership of voting securities, by contract or otherwise.

The term "Company" shall mean ABI and its existing and future Affiliates.

The term "Confidential Information" shall mean information, not generally known, and proprietary to the Company, about the Company's process, products, machines and services, including information relating to research, development, manufacturing, purchasing, accounting and finance, data processing, engineering, marketing, merchandising and selling, it being understood that "Confidential Information" includes but is not limited to information not generally known, and proprietary to the Company:

(a) of a technical nature, such as but not limited to, methods, know-how, formulae, compositions, processes, discoveries, machines, inventions, computer programs and similar items or research projects:

(b) of a business nature, such as but not limited to, information about cost, purchasing, profits, market, sales or lists of customers or suppliers; and

(c) pertaining to future developments, such as but not limited to, research and development or future marketing or merchandising.

In addition, all information disclosed to the Employee, or to which Employee obtains access, during the period of the Employee's employment with the Company, which the Employee has a reasonable basis to believe to be "Confidential Information," or which is treated by the Company as being "Confidential Information," shall be presumed to be "Confidential Information" for all purposes of this Agreement.

The term "Copyright" shall mean all forms of expressive authorship capable of being manifested in physical form for a duration of time and shall be considered a "work for hire."

The term "Inventions" shall mean discoveries, improvements and ideas (whether or not shown or described in writing or reduced to practice) and literary property rights, whether patentable or copyrightable or not, (i) relating to any of ABI's present or future manufacturing, sales, research or other activities or investigations, or (ii) relating to ideas, work or investigations conceived or carried on by the Employee in connection with or because of the Employee's employment by the Company, or based upon Confidential Information gained as a result of the Employee's employment by the Company. All other inventions of the Employee that do not fall within (i) or (ii) above are not subject to the terms of this Agreement.

The term "Person" shall mean and include an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization and a government or any department or agency thereof.

2. Covenant of the Employee. The employee hereby agrees:

(a) With respect to any Invention conceived and/or reduced to practice by the Employee, whether solely or jointly with others (i) during the period of the Employee's employment with the Company, whether or not during normal working hours, whether or not at the Company's premises and whether or not with the use of the Company's materials and personnel, (ii) within one year after termination of the Employee's employment with the Company, if such Invention relates to a product or process upon which the Employee worked during the last three years of the Employee's employment with the Company or (iii) which is based, in any way, on the Confidential Information:

(A) To promptly and fully disclose and describe such Invention in writing to the Company;

(B) To assign (and the Employee hereby does assign) to the Company all of the Employee's right, title and interest in and to any such Invention and to applications for Letters Patent and/or Copyrights in all countries and to Letters Patent and/or Copyrights granted upon such Inventions in all countries, it being understood that any such Invention shall be and become the absolute property of the Company from the moment of its conception, whether or not it is disclosed to the Company as required in Paragraph (A) above.

(C) To promptly acknowledge and deliver to the Company (without charge to the Company but at the Company's expense) such written instruments and do such other acts as may be deemed necessary

or desirable by the Company with respect to any such Invention, it being understood that the Employee will take such action whenever the Company shall request the Employee to take same, whether during the term of employment or the Employee with the Company or thereafter.

(D) Except with the prior written approval of the Company, to refrain (both during the term of the Employee's employment with the Company and thereafter) from, directly or indirectly, submitting for publication or publishing any idea or information with respect to any such Invention.

(E) In the event that the Company is unable for any reason whatsoever to secure the Employee's signature to any lawful and necessary document required to apply for or execute any patent, Copyright or other application with respect to such Inventions and improvements (including renewals, extensions, continuations, divisions or continuations-in-part thereof), the Employee hereby irrevocably designates and appoints the Company and its duly authorized officers and agents, as agents and attorneys-in-fact to act for and in his behalf and instead of him, to execute and file any such application and to do all other lawfully permitted acts to further the prosecution and issuance of patents, Copyrights or other rights thereon with the same legal force and effect as if executed by the Employee.

(b) Except in connection with carrying out proper functions as an employee of the company, the Employee will not at any time, either during the term of such Employee's employment with the Company or thereafter, directly or indirectly, use any of the Confidential Information for the benefit of the Employee or any other Person or, directly or indirectly, disclose any of the Confidential Information to any other Person.

(c) The Employee agrees to maintain and keep such records as the Company shall direct relating to the activities of the Employee performed for the Company, it being understood that all such records are to be deemed to be in the control of, and to be the property of, the Company, whether or not made as directed.

Upon termination of Employee's employment with the Company, all records relating to Confidential Information (including, without limitation, copies of such records in the possession of the Employee and records which the

Employee may deem to be "personal" files as opposed to files of the Company), whether such records were prepared by the Employee solely or jointly with others, will be turned over to the Company.

In addition to the above-mentioned obligation concerning documents relating to Confidential Information, the Employee hereby agrees, upon the termination of the Employee's employment with the Company, to turn over to an individual designated by the Company all property in the possession or custody of the Employee which belongs to the Company. The Employee further agrees not to retain any copies or reproductions of correspondence, memoranda, reports, notebooks, drawings, photographs or other documents relating in any way to the affairs of the Company (whether or not involving Confidential Information) and which were entrusted to the Employee at any time during the employment of the Employee with the Company or which otherwise come into the possession of the Employee, the Employee hereby agreeing that all such copies, reproductions, memoranda, reports, notebooks, drawings, photographs and other documents are the property of the Company, during the term of employment of the Employee with the Company and thereafter.

(d) Except as listed on Schedule A annexed hereto, the Employee will not assert any right under any Invention as having been made or acquired by the Employee prior to the commencement of the Employee's employment with the Company (and has made no assignment or other transfer of rights which would provide any other Person with a basis to assert any such right as an assignee or transferee of the Employee or otherwise), and the Employee hereby assigns to the Company all of the Employee's right, title and interest in and to any Invention which the Employee owns on the date hereof other than those set forth on Schedule A annexed hereto.

3. Other Agreements. The Employee hereby represents and warrants that such Employee is subject to no restrictions with respect to rendering employment services to the Company (whether with respect to the Confidential Information or otherwise) as a result of any prior employment or prior or present agreement. The Employee further represents and warrants that such Employee will not reveal to the Company, or otherwise, any confidential information of another Person which such Employee is prohibited by contract, or otherwise, from disclosing to the Company.

4. Governing Law. This Agreement shall be governed by and construed in accordance with the law (other than the provisions relating to conflict of laws) of the State of Connecticut.

5. Entire Agreement. This Agreement contains the entire agreement between the Company and the Employee with respect to the matters discussed herein and supersedes all previous written or oral negotiations, commitments and understandings. No representations and warranties or covenants are made by either the Company or the Employee other than those expressly contained in this Agreement.

6. Waivers. Any waiver of any term or provision of this Agreement must be explicitly in writing. A waiver of any breach or failure to enforce any of the terms or conditions of this Agreement shall not, in any way, effect, limit or waive the right of either party hereto at any time to enforce strict compliance thereafter with every other term or condition of this Agreement.

7. Severability. The covenants of the Employee contained in this Agreement shall each be construed as an agreement independent of any other provision of this Agreement, and the existence of any claim or cause of action of the Employee against the Company, whether predicated on this agreement or otherwise, shall not constitute a defense to the enforcement by the Company of any such covenant. The Company and the Employee hereby expressly agree that it is not the intention of either party hereto to violate any public policy, statutory or common law, and that if any sentence, paragraph, clause or combination of the same of any provision of this Agreement is in violation of the law of any state where applicable, such sentence, paragraph, clause or combination of the same shall be void in the jurisdictions where it is unlawful, and the remainder of such paragraph and this Agreement shall remain binding on the parties hereto. It is the intention of both parties hereto to make the provisions of this Agreement binding only to the extent that it may be lawfully done under existing applicable laws. In the event that any part or any provision of this Agreement is determined by a court of law to be overly broad thereby making the provision unenforceable the parties hereto agree, and it is their desire that such court shall substitute a reasonable judicially enforceable limitation in place of the offensive part of the provision, and that as so modified the provision shall be as fully enforceable as if set forth herein by the parties themselves in the modified form.

8. Notices. Any notice, request, instruction or other document to be given hereunder by the one party hereto to the other party hereto shall be in writing and delivered personally or by certified mail, postage prepaid, to the respective addresses of the parties hereto set forth above or such other address as the one party hereto shall specify to the other party hereto in writing.

9. Assignability and Amendment. This Agreement shall not be assignable by either of the parties hereto. This Agreement shall be binding upon, and shall inure to the benefit of the parties hereto, their successors, legal representatives and assigns. The employee acknowledges that the Employee is entering into this Agreement with ABI even though the direct employer or the immediate future direct employer of the Employee, as the case may be, may be an Affiliate of ABI rather than ABI. The Employee agrees that the above-stated consideration of ABI is adequate and that this Agreement may be enforced by (i) ABI and/or (ii) any Affiliate of ABI which may at any time be the direct employer of the Employee. This Agreement cannot be altered or otherwise modified or amended except pursuant to an instrument in writing signed by ABI and the Employee.

10. Counterparts and Headings. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute on and the same instrument. All headings in this Agreement are inserted for convenience or reference only and shall not be deemed to affect the meaning or interpretation of this Agreement.

11. Remedy of the Company. The Employee agrees that the Confidential information of the Company is of extremely high value to the Company and any action or omission on the part of the Employee which may lead, directly or indirectly, to the disclosure of any such Confidential Information to any Person or which may lead, directly or indirectly, to other misuse of such Confidential Information would be of extreme detriment to the Company and would cause irreparable harm and injury to the Company and its business, for which the Company would not have an adequate remedy at law. In the event of any breach of any covenant or representation or warranty of the Employee relating to such Confidential Information set forth in this Agreement, the Employee further agrees that the Company shall, in addition to such other remedies as may be available to it at law or in equity, be entitled to enforce its rights by obtaining injunctive relief against the Employee and the Employee hereby waives any objection which the Employee might have to the obtaining of such injunctive relief in the event of any breach of any covenant or representation or warranty contained in this Agreement.

12. Future Employment. The Employee hereby agrees that the Company may notify a future employer of the Employee or any prospective future employer of the Employee as to the existence and provisions of this Agreement and as to its intention to enforce its rights hereunder.

13. Not an Employment Agreement. The Employee represents and warrants that the Employee understands that his Agreement does not constitute an agreement to employ that Employee nor does it constitute an agreement for the provision of any monetary benefits to the Employee. No promise respecting employment or inducement to take employment have been made or offered and Employee and the Company agree that no such promises are binding unless made in writing. It is expressly agreed and understood that Employee has the right to terminate his employment at anytime for any reason or no reason and the Company retains the same right to terminate such employment.

14. Representation and Warranty of Employee. The Employee represents and warrants that the Employee has read this Agreement and understands the terms and provisions hereof (including, without limitation, the restrictions which such provisions place upon the Employee).

15. Compliance with Company Policies. The Employee represents and warrants that the Employee has read and understands the policy statements of the Company and hereby agrees to abide by such policy statements as in effect as of the date hereof and as amended from time to time.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused this Agreement to be executed as of the date first above written.

ANALYTICA OF BRANFORD, INC.

By: Craig M. Whitehouse
President

EMPLOYEE

By: J. Fred Barker, Jr.

OIPE JC105
AUG 2 5 2005
PATENT & TRADEMARK OFFICE

LEVISOHN, LERNER, BERGER & LANGSAM
757 THIRD AVENUE
NEW YORK, NEW YORK 10017
TEL: (212) 486-7272
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PETER L. BERGER
ANDREW S. LANGSAM
JANE B. LINOWITZ
MORRIS E. COHEN
BARRY E. NEGRIN
MARILYN NEIMAN
ANNA A. VISHEV

OF COUNSEL:
HENRY R. LERNER

PATENTS, TRADEMARKS
AND COPYRIGHTS

E-MAIL TO OFFICE:
PATENT@LLBL.COM

E-MAIL TO ATTORNEY:
FIRST INITIAL AND
LAST NAME OF
ATTORNEY@LLBL.COM

July 21, 2000

Via Federal Express
Mr. J. Fred Banks
2 Whitney Avenue
Old Saybrook, CT 06475

Re: U.S. Non-Provisional Application
Serial No. 09/532,724
Title: *Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry*
Our File No.: 840.081 (US Non-Provisional)

Dear Mr. Banks:

For your records, enclosed please find a copy of the nonprovisional application we filed with the U.S. Patent Office on March 22, 2000 in the above-captioned matter. The application lists you as an inventor and is directed to work performed during your employment at Analytica of Branford, Inc.

Enclosed as well are two forms: (a) a Declaration and Power of Attorney for Patent Application; and (b) a Verified Statement Claiming Small Entity Status. These documents need to be signed and filed in the Patent Office for the proceedings in this application to move forward in the Patent Office. Thus, it is very important that you review all of the enclosed documents, sign the forms, and return the executed forms to our attention.

Our deadline for filing the forms (with one extension of time) is August 26, 2000. To ensure adequate time for filing these materials with the Patent Office, however, please return them to us by August 21, 2000.

For your convenience, enclosed please find both a Federal Express package (using our FedEx account number) and a stamped envelope (first class mail) both already addressed to our attention. We would prefer it if you could send us the forms by FedEx, if possible.

Exhibit 2

However, if that is not convenient, please use the enclosed envelope for first class mail.

If we do not hear from you or receive the forms by August 21st, we will assume that you are unwilling to execute them and will notify the Patent Office accordingly.

Should you have any questions with reference to this matter, please do not hesitate to let us know. We appreciate your cooperation and are available to assist you if needed.

Best regards.

Sincerely yours,

Morris E. Cohen

Enclosures

MEC:hlr

100

FedEx. USA Airbill FedEx Tracking Number 8196 4309 9895

Form I.D. No. 0215 **Recipient's Copy**

RECIPIENT: PEEL HERE

1 From This portion can be removed for Recipient's records.

Date ES 7/25/00 FedEx Tracking Number 819643099895

Sender's Name Morris E. Cohen Phone 212 486-7272

Company LEVISOHN LERNER & BERGER ETAL

Address 757 3RD AVE STE 2400 Dept./Floor/Suite/Room

City NEW YORK State NY ZIP 10017

2 Your Internal Billing Reference 840.081 (US Non-Prov.)

3 To

Recipient's Name J. Fred Banks Phone

Company

Address 2 Whitney Avenue

To "HOLD" at FedEx location, print FedEx address. We cannot deliver to P.O. boxes or P.O. ZIP codes.

Dept./Floor/Suite/Room

City Old Saybrook State CT ZIP 06475

8196 4309 9895

0130523479

4a Express Package Service *Packages up to 150 lbs.* Delivery commitment may be later in some areas.

- [x] FedEx Priority Overnight — Next business morning
- [ ] FedEx Standard Overnight — Next business afternoon
- [ ] FedEx First Overnight — Earliest next business morning delivery to select locations
- [ ] FedEx 2Day* — Second business day
- [ ] FedEx Express Saver* — Third business day

* FedEx Envelope/Letter Rate not available. Minimum charge: One-pound rate

4b Express Freight Service *Packages over 150 lbs.* Delivery commitment may be later in some areas.

- [ ] FedEx 1Day Freight* — Next business day
- [ ] FedEx 2Day Freight — Second business day
- [ ] FedEx 3Day Freight — Third business day

* Call for Confirmation: _____

5 Packaging * Declared value limit $500

- [ ] FedEx Envelope/Letter*
- [x] FedEx Pak*
- [ ] Other Pkg. — Includes FedEx Box, FedEx Tube, and customer pkg.

6 Special Handling Include FedEx address in Section 3

- [ ] SATURDAY Delivery — Available for FedEx Priority Overnight and FedEx 2Day to select ZIP codes
- [ ] SUNDAY Delivery — Available for FedEx Priority Overnight to select ZIP codes
- [ ] HOLD Weekday at FedEx Location — Not available with FedEx First Overnight
- [ ] HOLD Saturday at FedEx Location — Available for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods? One box must be checked.

- [x] No
- [ ] Yes — As per attached Shipper's Declaration
- [ ] Yes — Shipper's Declaration not required
- [ ] Dry Ice — Dry Ice, 9, UN 1845 _____ x _____ kg
- [ ] Cargo Aircraft Only

Dangerous Goods cannot be shipped in FedEx packaging.

7 Payment *Bill to:* Enter FedEx Acct. No. or Credit Card No. below.

- [x] Sender — Acct. No. in Section 1 will be billed.
- [ ] Recipient
- [ ] Third Party
- [ ] Credit Card
- [ ] Cash/Check
- [ ] Obtain Recip. Acct. No.

Total Packages _____ Total Weight _____ Total Charges _____ Credit Card Auth. _____

†Our liability is limited to $100 unless you declare a higher value. See the *FedEx Service Guide* for details.

8 Release Signature *Sign to authorize delivery without obtaining signature.*

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

Questions? Call 1·800·Go·FedEx® (800-463-3339)

Visit our Web site at www.fedex.com

SRS 100•Rev. Date 8/99•Part #154813S•©1994-99 FedEx•PRINTED IN U.S.A.

359

Exhibit 3

840.001

WILLIAM A. BUTLER
Attorney at Law

259 Elm Street
Post Office Box 62
West Haven, CT 06516

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(203) 937-9777
Fax 931-9636

August 22, 2000

David T. Grudberg, Esquire
Jacobs, Grudberg, Belt & Dow
350 Orange Street
P. O. Box 606
New Haven, CT 06503

Re: Analytica of Branford, Inc./Dr. Fred Banks

Dear Dave:

Enclosed is Power of Attorney for patent application of the "Direct Flow Injection Analysis Nebulization Electrospray" which your client is listed as an inventor. I would ask Dr. Banks execute the form where indicated and return to me for submission to the United States Patent and Trademarks Office.

Please contact me should you have any questions.

Sincerely,

WILLIAM A. BUTLER

WAB/ccd
Enclosure

CC: Craig M. Whitehouse, President

Exhibit 4

VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) AND 1.27 (b)) - INDEPENDENT INVENTOR

Docket No. 840.081

Serial No.	Filing Date	Patent No.	Issue Date

Applicant/ Patentee: **Bruce A. Andrien, Jr.; J. Fred Banks, Jr.; James Boyle**

Invention: **Direct Flow Injection Analysis Nebulization Electrospray and APCI Mass Spectrometry**

O I P E
AUG 2 5 2005
PATENT & TRADEMARK OFFICE

As a below-named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled above and described in:

- ☒ the specification to be filed herewith.
- ☐ the application identified above.
- ☐ the patent identified above.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☐ No such person, concern or organization exists.
- ☒ Each such person, concern or organization is listed below.

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities (37 CFR 1.27)

FULL NAME **Analytica of Branford, Inc.**
ADDRESS **29 Business Park Drive, Branford, CT 06405**
☐ Individual ☒ Small Business Concern ☐ Nonprofit Organization

FULL NAME
ADDRESS
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME
ADDRESS
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

FULL NAME
ADDRESS
☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

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, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF INVENTOR **Bruce A. Andrien Jr.**
SIGNATURE OF INVENTOR Bruce a andrien Jr DATE: 8/10/00

NAME OF INVENTOR **J. Fred Banks,**
SIGNATURE OF INVENTOR _____ DATE: _____

NAME OF INVENTOR **James Boyle**
SIGNATURE OF INVENTOR James Boyle DATE: 8/16/00

NAME OF INVENTOR _____
SIGNATURE OF INVENTOR _____ DATE: _____

NAME OF INVENTOR _____
SIGNATURE OF INVENTOR _____ DATE: _____

NAME OF INVENTOR _____
SIGNATURE OF INVENTOR _____ DATE: _____

NAME OF INVENTOR _____
SIGNATURE OF INVENTOR _____ DATE: _____

NAME OF INVENTOR _____
SIGNATURE OF INVENTOR _____ DATE: _____

NAME OF INVENTOR _____
SIGNATURE OF INVENTOR _____ DATE: _____

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LEVISOHN, BERGER & LANGSAM, LLP
19TH FLOOR
805 THIRD AVENUE
NEW YORK NY 10022

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JAN 26 2006

OFFICE OF PETITIONS

In re Application of Bruce A. Adrien Jr. et al. Application No. 11/077,794 Filed: March 10, 2005 Attorney Docket No. 840.081.100	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

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

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

The above-identified application was filed March 10, 2005, without the signature of joint inventor J. Fred Banks. Accordingly, on June 23, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

Petitioner has submitted a copy of a decision on petition under 37 CFR 1.47, mailed February 6, 2002, allowing application no. 09/532,724 to proceed without the signature of joint inventor J. Fred Banks.

As the instant application is a continuation application of application no. 09/532,724 filed March 22, 2000,the decision mailed February 6, 2002 has been placed in the file of the present application.

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

As provided in Rule 1.47c, 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 matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LEVISOHN BERGER & LANGSAM LLP
19TH FLOOR
805 THIRD AVENUE
NEW YORK NY 10022

In re Application of	:	
Andrien, et al.	:	
Application No. 11/077,794	:	DECISION ON PETITION
Filed: April 26, 2002	:	
Attorney Docket No. 840.081.100	:	

This is a decision on petition filed March 10, 2005, requesting that the above application be accorded a filing date of April 26, 2002.

The petition is **GRANTED**.

Application No. 09/532,724 (Patent No. 6,458,597 - issued October 1, 2002) was filed on March 22, 2000. On April 26, 2002, applicants filed a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) in the application.[1] As the CPA was filed after the payment of the issue fee, the CPA was improper. The Office returned a USPTO date stamped, postcard receipt, evidencing the CPA filing of April 26, 2002. However, as the filing was made as a CPA under 37 CFR 1.53(d), and not a new application filing under 37 CFR 1.53(b), no application serial number was stamped by the Office on the postcard. Applicants filed the application anew, together with the instant petition, on March 10, 2005. This time applicants included the proper transmittal form under 37 CFR 1.53(b).

Given the facts in this instance, the petition is granted.

---

[1] A CPA transmittal form was used.

Applicants are reminded that a non-final Office action was mailed on June 26, 2007.

The petition fee of $400 has been charged to Deposit Account No. 02-2105, as authorized.

The application will be forwarded to the Office of Patent Application Processing to change the **filing date to April 26, 2002**, using the copy of the application papers submitted on March 10, 2005.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/077,808	03/09/2005	Alan Reynolds	OPT SYS-002	7818

29626 7590 01/23/2008
THE H.T. THAN LAW GROUP
WATERFRONT CENTER SUITE 560
1010 WISCONSIN AVENUE NW
WASHINGTON, DC 20007

EXAMINER
KIM, ELLEN E

ART UNIT	PAPER NUMBER
2874	

MAIL DATE	DELIVERY MODE
01/23/2008	PAPER

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

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

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DIRECTORS OFFICE
JAN 23 2008
TECHNOLOGY CENTER 2800

THE H.T. THAN LAW GROUP
Waterfront Center, Suite 560
1010 Wisconsin Avenue, NW
Washington, DC 20007

In re Application of:	:	
Alan Reynolds	:	
Serial No.: 11/077,808	:	DECISION ON PETITION
Filed: March 09, 2005	:	TO EXPUNGE
Attorney Docket No.: **OPT SYS-002**	:	

This is a decision on the petition and request filed August 22, 2005, and supplemented on November 29, 2007, to expunge information submitted pursuant to 37 C.F.R. § 1.59(b), and M.P.E.P. § 724.02.

The petition is **Granted**.

For a petition under 37 C.F.R. § 1.59(b) to be granted, the petition must contain:
(A) a clear identification of the information to be expunged without disclosure of the details thereof; (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public; (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR1.59(b) (M.P.E.P. § 724.05[R-3](I)).

A review of the instant petition, as supplemented, reveals that it meets the above requirements. Accordingly, the petition to expunge must be granted. The material requested to be expunged will be returned with this decision.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical

Enclosure: Expunged material

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AUG 19 2005

Gordon & Jacobson, P.C.
Suite 407
60 Long Ridge Road
Stamford CT 06902

In re Application of	:	
Jorge L. Orbay	:	
Serial No.: 11/077833	:	**DECISION ON PETITION**
Filed: March 11, 2005	:	
For: Volar Plate System	:	

This is in response to applicants' petition filed March 21, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II. 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 (703) 872-9306.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

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OFFICE OF PETITIONS

In re Application of	:	
Strecker, Brian N.	:	
Application No. 11/077,834	:	ON PETITION
Filed: March 11, 2005	:	
Attorney Docket No. 5671.077	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 8, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of corrected drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 04/21/2010

Applicant	: Jung-Shin Park	: DECISION ON REQUEST FOR
Patent Number	: 7596114	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,854	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

Mail Date: 05/18/2010

Applicant : Jung-Shin Park
Patent Number : 7596114
Issue Date : 09/29/2009
Application No : 11/077,854
Filed : 03/11/2005

: 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 **424** 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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PATRICK W. RASCHE (22402)
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 06/17/2010

Applicant	: Robert J. Klare	: DECISION ON REQUEST FOR
Patent Number	: 7635062	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/077,872	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **769** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROBERT A. KENT
P.O. BOX 1431
DUNCAN OK 73536

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OFFICE OF PETITIONS

In re Application of	:
Pauls et al.	:
Application No. 11/077881	: DECISION ON PETITION
Filed: 03/11/2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HES 2004-IP-015335U1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 21, 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 supplemental Application Data Sheet (ADS) filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

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

This application is being forwarded to Technology Center Art Unit 1796 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/077,881	03/11/2005	1796	1200	HES 2004-IP-015335U1	20	4

CONFIRMATION NO. 8877

CORRECTED FILING RECEIPT

71407
ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

OC000000030184926

Date Mailed: 06/03/2008

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)

Richard W. Pauls, Duncan, OK;
Ian D. Robb, Duncan, OK;
Bobby J. Burns, Duncan, OK;

Assignment For Published Patent Application

Halliburton Energy Services, Inc.

Power of Attorney:

John Booth Sr--25325
Robert Kent--28626
William Shull--29438
John Wustenberg--35415
Craig Roddy--36256
Todd Albanesi--36426
Paul Herman--37349

Domestic Priority data as claimed by applicant

This application is a CIP of 10/850,128 05/20/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/077,881**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Methods and compositions of controlling the rheology of a diutan-containing well treatment fluid at high temperatures

Preliminary Class

507

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

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

Mail Date: 04/20/2010

Applicant	: Richard W. Pauls	: DECISION ON REQUEST FOR
Patent Number	: 7595282	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,881	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **703** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LAW OFFICES OF DOUGLAS W. RUDY, LLC
401 N. MICHIGAN AVENUE SUITE 1200
CHICAGO IL 60611

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MAR 2 1 2007

OFFICE OF PETITIONS

In re Application of :
John Satterfield :
Application No. 11/077,905 :
Filed: 03-11-2005 :
Attorney Docket No. 69-7 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2006, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed September 20, 2005, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on December 21, 2005. On March 29, 2006, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

Petitioner submitted a terminal disclaimer (and fee) with the present petition. The Office notes that a terminal disclaimer is not necessary because petitioner filed this utility application after June 8, 1995. See 37 CFR 1.137(d). Therefore, the Office will not enter the terminal disclaimer. Petitioner may request a refund of the $65.00 terminal disclaimer fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This matter is being referred to Technology Center Art Unit 1724.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Yahoo! Inc.
c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Albert K. So	: DECISION ON REQUEST FOR
Patent Number	: 7630708	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **119** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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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	:	
W. Patrick Stephens et al.	:	
Application No. 11/077,938	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. 021630-006810US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Nicholas V. Sherbina and all attorneys/agents of record has been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Hoffmann & Baron LLP
6900 Jericho Turnpike
Syosset NY 11791

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

MICHAEL H JESTER
505 D GRAND CARIBE CAUSEWAY
CORONADO, CA 92118

Mail Date: 04/27/2010

Applicant	: Mark S. Olsson	: DECISION ON REQUEST FOR
Patent Number	: 7619516	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/077,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **871** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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LAVALLE D. PTAK
LAW OFFICE OF LAVELLE PTAK
28435 N 42ND STREET
SUITE B
CAVE CREEK AZ 85331

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OFFICE OF PETITIONS

In re Application of	:	
Mitsis et al.	:	
Application No. 11/077,949	:	ON PETITION
Filed: March 11, 2005	:	
Attorney Docket No. 5153.22	:	

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

The petition to revive under 37 CFR § 1.137(a) is DISMISSED.

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

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of December 12, 2006. An amendment was received on February 21, 2007. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on March 5, 2007 which set an extendable reply period of one month. A reply was received on November 12, 2004. No extensions of time were obtained pursuant to 37 CFR 1.136(a). This application became abandoned on April 5, 2007. A Notice of Abandonment was mailed on September 27, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

Petitioner asserts that a reply to the Notice was submitted on March 16, 2007. As evidence, petitioner has submitted a copy of the reply which contains a certificate of mailing pursuant to 37 CFR 1.8. Petitioner has also provided a copy of an un-stamped postcard.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. The Office may require additional evidence to determine if the correspondence was timely filed.

Petitioner has failed to meet requirement (3). Petitioner must provide a statement which attest on personal knowledge that the documents were mailed on March 16, 2007. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). A review of the certificate of mailing shows that it was executed by someone other than Attorney Ptak. A statement has not been provided by the person who executed the certificate of mailing nor has Attorney Ptak provided a sufficient statement.

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

By mail: Mail Stop Petition

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

By facsimile: (571) 273-8300

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

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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LAW OFFICE OF LAVELLE PTAK
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MAR 26 2008

OFFICE OF PETITIONS

In re Application of :
Mitsis et al. :
Application No. 11/077,949 : ON PETITION
Filed: March 11, 2005 :
Attorney Docket No. 5153..22 :

This is a decision on the renewed petition under 37 CFR 1.137(a), filed January 7, 2008, to revive the above-identified application.

The petition is **GRANTED.**

This above-identified application became abandoned for failure to timely file a complete reply to the non-final Office Action of December 12, 2006. An amendment was received on February 21, 2007. A Notice of Non-Compliant Amendment (37 CFR 1.121) was mailed on March 5, 2007 which set an extendable reply period of one month. A reply was received on November 12, 2004. No extensions of time were obtained pursuant to 37 CFR 1.136(a). This application became abandoned on April 5, 2007. A Notice of Abandonment was mailed on September 27, 2007. A petition under 37 CFR 1.137(a) was dismissed December 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of an amendment; (2) the petition fee of $255.00; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

This application is being referred to Art Unit 2612 for processing of the amendment submitted on petition in the normal course of business.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

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AUG 07 2008

In re Application of	:
Paul Goodwin	:
Application No. 11/077,952	: DECISION ON PETITION
Filed: March 11, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 21260-079001	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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.

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

This application is being forwarded to Technology Center Art Unit 2841 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

David Bucci
Petition Examiner
Office of Petitions

cc: Fish & Richardson P.C.
One Congress Plaza, Suite 810
111 Congress Avenue
Austin, TX 78701

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
11/077,952	03/11/2005	2841	1100	21260-079001	22	3

CONFIRMATION NO. 9390

CORRECTED FILING RECEIPT

26201
FISH & RICHARDSON P.C.
P.O BOX 1022
Minneapolis, MN 55440-1022

OC000000031418805

Date Mailed: 08/06/2008

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

Applicant(s)

Paul Goodwin, Austin, TX;

Assignment For Published Patent Application

Staktek Group, L.P.

Power of Attorney:

Ruffin Cordell--33487
Craig Jepson--33517
Richard Anderson--36732
Steven Lauff--58830
J Denko--37606

Domestic Priority data as claimed by applicant

This application is a CIP of 10/934,027 09/03/2004
and is a CIP of 11/005,992 12/07/2004
and is a CIP of 11/007,551 12/08/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/077,952**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Memory module system and method

Preliminary Class

361

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/077,961	03/11/2005	2812	565	715-1-128 N	8	11	3

CONFIRMATION NO. 4231

CORRECTED FILING RECEIPT

OC000000016699826

23565
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

Date Mailed: 08/04/2005

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

Applicant(s)

Ravindra M. Nuggehalli, Summit, NJ;
Anthony T. Fiory, Summit, NJ;
Shet Sudhakar, Newark, NJ;

Power of Attorney: The patent practitioners associated with Customer Number **23565**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/552,646 03/12/2004

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/077,961

Projected Publication Date: 11/10/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method of magnetic field assisted self-assembly

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

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

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

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

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

NOT GRANTED

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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Thomas P. Branch	: DECISION ON REQUEST FOR
Patent Number	: 7665167	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,964	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1382** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,620,947	: DECISION ON REQUEST
RAVINDER KRISHNASWAMY	: FOR
Issue Date: November 17, 2009	: RECONSIDERATION OF
Application No. 11/077,966	: PATENT TERM ADJUSTMENT
Filed: March 11, 2005	: and
Atty Docket No. 15786-060001	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 14, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred eight (1108) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred seven (1107) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 12, 2008 and ends on June 17, 2009, the day before the RCE was filed, and is 463 (not 464) days. See 35 U.S.C. 154(b)(1)(B)(i). Considering the overlapping period of 168 days, the patent term adjustment is 1107, not 1108 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seven (1107)** days.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,620,947 B2

DATED : **November 17, 2009** **DRAFT**

INVENTOR(S) : RAVINDER KRISHNASWAMY

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 812 days

Delete the phrase "by 812 days" and insert – by 1107 days--

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Paper No. None

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Glen Wolf, Brian Dalimann, Peter Braun, and	:	DECISION ON PETITION
Thomas Soukup	:	UNDER 37 C.F.R. §1.47(a)
Application No. 11/077,967	:	
Filed: March 11, 2005	:	
Attorney Docket No. 3425.01US02	:	
Title: INTEGRATED POWER WINDOW	:	
AND SKYLIGHT OPERATING SYSTEMS	:	

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed September 8, 2005.

On March 11, 2005, the application was deposited. No oath or declaration was included on filing. On April 15, 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 the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

With the present petition, Petitioner has submitted the petition fee, the associated surcharge, the basic filing fee, additional claim fees, a statement of facts, and a declaration which has been

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.

signed by each of the joint inventors save Mr. Braun. Petitioner has further included a three-month extension of time to make timely this response.

Petitioner has met requirements (1) – (4).

Regarding the fifth requirement, the declaration gives the mailing address of the non-signing joint inventor as his work address, whereas the papers were sent to his last known address – which is a residential address. Assuming that the statement of facts is to be believed, petitioner will need to submit a declaration which contains the correct mailing address for the non-signing joint inventor.

As such, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)." This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

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

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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DEC 0 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Glen Wolf, Brian Dalimann,	:	DECISION ON RENEWED PETITION
Peter Braun, and Thomas Soukup	:	UNDER 37 C.F.R. §1.47(a)
Application No. 11/077,967	:	
Filed: March 11, 2005	:	
Attorney Docket No. 3425.01US02	:	
Title: INTEGRATED POWER WINDOW	:	
AND SKYLIGHT OPERATING SYSTEMS	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed November 3, 2005.

The Office regrets the period of delay in issuing this decision.

On March 11, 2005, the application was deposited. No oath or declaration was included on filing. On April 15, 2005, a "Notice to File Missing Parts of Nonprovisional Application -

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(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.

Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

The original petition was submitted on September 8, 2005, and was dismissed via the mailing of a decision on September 29, 2005. The decision indicated that Petitioner had met requirements (1) - (4) of Rule §1.47(a), and that the declaration lists:

> the mailing address of the non-signing joint inventor at (sic) his work address, whereas the papers were sent to his last known address - which is a residential address. Assuming that the statement of facts is to be believed, petitioner will need to submit a declaration which contains the correct mailing address for the non-signing joint inventor.

With this renewed petition, Petitioner has submitted a blank declaration, which lists the correct residential address of the non-signing joint inventor.

At the time of the mailing of the decision on the original petition, the undersigned failed to notice that the declaration contains the work address for each of the signing joint inventors. The undersigned regrets this error.

37 C.F.R. §1.63(c)(1) sets forth that unless such information is supplied on an application data sheet (ADS) in accordance with Rule §1.76, the declaration must also identify the mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor.

Therefore, Petitioner must either <u>submit an ADS which lists the residential address for each of the inventors, or have each of the signing joint inventors execute a new declaration which lists their residential addresses</u>.

For the above reason, the petition must be **DISMISSED**.

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

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

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Placing anything other than the address listed below will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Paper No. None

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MINNEAPOLIS MN 55402-2100

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Glen Wolf, Brian Dalimann,	:	DECISION ON SECOND RENEWED
Peter Braun, and Thomas Soukup	:	PETITION UNDER 37 C.F.R.
Application No. 11/077,967	:	§1.47(a)
Filed: March 11, 2005	:	
Attorney Docket No. 3425.01US02	:	
Title: INTEGRATED POWER WINDOW	:	
AND SKYLIGHT OPERATING SYSTEMS	:	

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed April 2, 2007.

On March 11, 2005, the application was deposited. No oath or declaration was included on filing. On April 15, 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

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(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.

were required, along with the basic filing fee, and additional claim fees. This Notice set a two-month period for reply.

The original petition was submitted on September 8, 2005, and was dismissed via the mailing of a decision on September 29, 2005. The renewed petition was filed on November 3, 2005, and was dismissed via the mailing of a decision on December 1, 2006.

With this second renewed petition, the previously mentioned deficiency has been corrected. This petition was filed along with a two-month extension of time, in order to make this response timely[2]. Therefore, this renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

Petitioner has submitted a fee with both the renewed and this second renewed petition, however there is no fee associated with the filing of the same. Consequently, the fees will be refunded to Petitioner's Deposit Account.

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

The Office of Initial Patent Examination (OIPE) will be notified of this decision.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. The general phone number for OIPE is 571-272-4000.

Paul Shanoski

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

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2 It is noted that this petition contains a certificate of mailing dated March 27, 2007.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Peter Braun
23932 Echo Avenue
Faribault, MN 55021

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OFFICE OF PETITIONS

In re Application of :
Glen Wolf, Brian Dalimann, Peter :
Braun, and Thomas Soukup :
Application No. 11/077,967 :
Filed: March 11, 2005 : LETTER
Attorney Docket No. 3425.01US02 :
Title: INTEGRATED POWER WINDOW AND :
SKYLIGHT OPERATING SYSTEMS :

Dear Mr. Braun:

You are named 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 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, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. 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).

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

cc: PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
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United States Patent and Trademark Office
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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Shyam Kapur	: DECISION ON REQUEST FOR
Patent Number	: 7668808	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,968	: OF WYETH
Filed	: 03/10/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

OIPE IAP61
FEB 0 2 2006
PATENT & TRADEMARK OFFICE

S/N 11/077,969 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	LEWIS ET AL.	Examiner:	UNKNOWN
Serial No.:	11/077,969	Group Art Unit:	1761
Filed:	MARCH 10, 2005	Docket No.:	14263.13USU1
Confirmation No.:	4249	Customer No.:	23552
Title:	METHODS AND SYSTEMS FOR PRODUCING ETHANOL USING RAW STARCH AND FRACTIONATION		

CERTIFICATE UNDER 37 CFR 1.10:
"Express Mail" mailing label number: EV 639595094 US
Date of Deposit: February 2, 2006

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

By: _____
Name: John Junkers

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)(2)(i) AND/OR 37 C.F.R. § 1.102(c)(2)(ii)

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

23552
PATENT TRADEMARK OFFICE

Dear Sir:

Applicants respectfully request that Application Serial No. 11/077,969 be examined on an expedited basis by way of grant of this Petition. Applicants submit that the invention materially contributes to the discovery or development of energy resources. Applicants further submit that the present invention materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements. Accordingly, this application can be made special under the provisions of 37 C.F.R. § 1.102(c)(2)(ii), as well as, or in the alternative, under the provisions of 37 C.F.R. § 1.102(c)(2)(i). This Petition is supported by a Statement Under 37 C.F.R. § 1.102, submitted herewith.

02/06/2006 HTECKLU1 00000033 11077969
01 FC:1464 130.00 OP

FEB 2 7 2006

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

128904v1

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

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

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JUL 2 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven M. Lewis, et al.	:	
Application No. 11/077,971	:	DECISION ON PETITION
Filed: March 10, 1005	:	TO WITHDRAW
Attorney Docket No. B227 1030.1	:	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 January 22, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Merchant & Gould, PC has been revoked by the assignee of the patent application on May 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Briggs Ricky-Dale Lewis	: DECISION ON REQUEST FOR
Patent Number	: 7667904	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,972	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **856** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Mail Date: 04/21/2010

Applicant	: Ynjiun Wang	: DECISION ON REQUEST FOR
Patent Number	: 7611060	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/077,976	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1083** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

Mail Date: 05/18/2010

Applicant : Ynjiun Wang
Patent Number : 7611060
Issue Date : 11/03/2009
Application No : 11/077,976
Filed : 03/11/2005

: 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 **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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1180 PEACHTREE STREET, NE
ATLANTA GA 30309-3521

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DEC 01 2009

OFFICE OF PETITIONS

In re Patent No. 7,498,322 :
AGOSTON et al. :
Issue Date: March 3, 2009 : DECISION ON REQUEST FOR
Application No. 11/077,977 : RECONSIDERATION OF
Filed: March 11, 2005 : PATENT TERM ADJUSTMENT
Docket No. 05213-3061(13663.105164):

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed April 27, 2009. Patentees request that the determination of patent term adjustment for the above-identified patent be corrected from eight hundred seventy-three (873) days to one thousand twenty-seven (1,027) 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 873 days.

On March 3, 2009, the above-identified application matured into U.S. Patent No. 7,498,322 with a revised patent term adjustment of 873 days. The Office determined that the 357 days of Office delay, pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),[1]

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides:

> 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:

overlap with the 873 days of Office delay,[2] pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1),[3] accorded during the pendency of the application. As such, the Office allowed entry of only the period of adjustment of 873 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the 0 days of applicant delay, the patent issued with a revised patent term adjustment of 873 days.

On April 27, 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 1,027 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 do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (357 days) and the period of Examination Delay (873 days) to the extent that these periods of delay are not overlapping. Patentees contend that the periods of delay

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(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.

[2] A nonfinal Office action was mailed on September 30, 2008, 14 months and 873 days after the application was filed on March 11, 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;

attributable to grounds specified under 35 U.S.C. 154(b)(1)(A) and (B) overlap by 203 days as they occur on the same calendar days in both period. Patentees assert that this overlapping period is the 203 days running from March 12, 2008 to September 30, 2008. Patentees maintain that the total non-overlapping period of Office delay is 1,027 days as these periods do not occur on the same days. Given the 0 days of applicant delay, patentees assert entitlement to 1,027 days of patent term adjustment.

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

---

[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.

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the date of filing of the application under 35 U.S.C. 111(a) on March 11, 2005, and ending on the date of issuance of the patent on March

3, 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), 873 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 357 days of patent term adjustment accrued for Office issuance of the patent more than three years after the filing date of the application.

All of the 357 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 837 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 357 days and the 873 days is neither permitted nor warranted. 873 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 357 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 873 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 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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KING & SPALDING
1180 PEACHTREE STREET, NE
ATLANTA GA 30309-3521

MAILED
MAY 25 2010
OFFICE OF PETITIONS

In re Patent No. 7,498,322	:	
AGOSTON et al.	:	ON REQUEST FOR
Issue Date: March 3, 2009	:	RECONSIDERATION
Application No. 11/077,977	:	OF PATENT TERM ADJUSTMENT
Filed: March 11, 2005	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 05213-3061	:	
(13663.105164)	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF USPTO DECISION REGARDING CORRECTION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed February 25, 2010.

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

On March 3, 2009, the above-identified application matured into U.S. Patent No. 7,498,322, with a revised patent term adjustment of 873 days. On April 27, 2009, patentees timely submitted a request for reconsideration of patent term adjustment within two months of the issue date of the patent. See 37 CFR 1.705(d). On December 1, 2009, the Office mailed a decision dismissing the petition under 37 CFR 1.705(d).

On February 25, 2010, patentees submitted the present request for reconsideration of the decision mailed December 1, 2009. Patentees assert:

> The USPTO Decision of December 1, 2009, did not provide a response period for which Patentee should submit a formal response to the Decision. Accordingly, Patentees submitted a Response within two months of said Decision and promptly after the decision was issued in the United States Court of Appeals for the Federal Circuit in Case

> No. 2009-1120, *Wyeth and Elan Pharma International Limited v. Kappos, Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office*, decided January 7, 2010 (hereinafter *"Wyeth"*). Patentees contend that this request is timely filed as no response period was provided in the Decision of December 1, 2009.

Request for reconsideration, 02/15/10, p. 1.

Patentees' assertion as to the timeliness of the filing of the present request for reconsideration is not well taken.

The Office notes that patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within two months of the date of the decision (37 CFR 1.181(f)).

In this instance, the request for reconsideration of patent term adjustment was not filed within two months of the December 1, 2009 mailing date of decision dismissing the initial application for patent term adjustment pursuant to 37 CFR 1.181(f). As no extensions of time under 37 CFR 1.136 are permitted, the period for filing a request for reconsideration ended on February 1, 2010. Accordingly, it is appropriate to dismiss this petition as untimely filed under 37 CFR 1.705(d).

The fact that any relief ultimately granted in Wyeth may benefit patentees had they timely filed a request for reconsideration within two months of the December 1, 2009 decision does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision.

The fact that the Federal Circuit affirmed the Opinion of the District Court for the District of Columbia in favor of Wyeth 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. The contention that a decision is

in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision. If patentees were dissatisfied with the decision dismissing the petition under 1.705(d), patentees should have filed a request for reconsideration of patent term adjustment within two months of the mailing date of that decision pursuant to 37 CFR 1.181(f). Moreover, patentees could have filed a civil action against the Director in the United States District Court for the District of Columbia within 180 days after the grant of the patent. See 35 USC 154(b)(4)(A).

Therefore, as patentees did not file the present request for reconsideration of patent term within two months of the mailing date of the decision dismissing the petition under 37 CFR 1.705(d), the request is properly **dismissed as untimely filed**.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Steven Ambrogio
1095 Creek Ridge Point
Alpharetta GA 30005

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Ambrogio : DECISION ON PETITION
Application No. 11/078,021 :
Filed: March 11, 2005 :
For: ALTERABLE / DESIGNABLE :
SHOE

The above-identified application has been referred to the Office of Petitions for consideration of the response submitted December 22, 2006 seeking waiver of the extension of time fees required for submission of a response to the Office communication mailed August 21, 2006. This matter is being treated under 37 CFR 1.183 as a petition for waiver of the extension of time fees required under 37 CFR 1.136.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.183." This is not a final agency decision.

This application became abandoned September 22, 2006 for failure to timely reply to the Office communication mailed August 21, 2006. The Office communication set a one month shortened statutory period of time for reply. No extensions of time in accordance with 37 CFR 1.136(a) were timely requested. This decision precedes Notice of Abandonment.

In accordance with 37 CFR 1.183, "[i]n an extraordinary situation, when justice re-quires, 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)."

The fee set forth at 37 CFR 1.17(f) is currently $400.00. The instant petition lacks the required petition fee and is, therefore, subject to dismissal.

Moreover, in accordance with 37 CFR 1.33(b), "[a]mendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by: (1) A patent practitioner of record appointed in compliance with § 1.32(b); (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34; (3) An assignee as provided for under § 3.71(b) of this chapter; or (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter."

The instant petition has not been signed, subjecting it to further dismissal.

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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-07

STEVEN AMBROGIO
1095 CREEK RIDGE POINTE
ALPHARETTA GA 30005

COPY MAILED

AUG 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Steven Ambrogio	:	
Application Number: 11/078021	:	DECISION ON PETITION
Filing Date: 03/11/2005	:	
For: ALTERABLE / DESIGNABLE	:	
SHOE	:	

This is a decision on the petition filed on 16 April, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 September, 2006, for failure to timely file a proper reply to the Office action requiring restriction and/or election mailed on 21 August, 2006, which set a one (1) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the election filed on 22 December, 2006, and with the present petition is acknowledged.

---

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

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

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

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

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

The application is being referred to Technology Center Art Unit 3728 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Brian M. Berliner
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles CA 90071-2899

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of	:	
Jon Horner	:	DECISION REFUSING STATUS
Application No. 11/078,034	:	UNDER 37 CFR 1.47(b)
Filed: March 11, 2005	:	
Attorney Docket No. 775475-72	:	

This is in response to the petition under 37 CFR 1.47(b), filed August 11, 2005. Petitioner obtained an extension of time for response within the second month. Accordingly, the petition is filed timely.

Petitioner showed that Jon Horner, the non-signing inventor, refused to join in the application after being mailed the application papers via certified mail. Petitioner demonstrated that SEMTECH has a proprietary interest in the above-identified application with the copy of an Invention Assignment & Secrecy Agreement, showing that the inventor had an obligation to assign any patent rights to SEMTECH. Petitioner submitted the requisite fees. Additionally, petitioner indicated that such action is necessary to prevent irreparable damage. However, petitioner failed to file a declaration in compliance with 37 CFR 1.63 and 1.64.

Accordingly, the petition is dismissed.

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

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Petitioner lacks item (2) as set forth above.

As to item (2), petitioner did not submit a declaration with the present petition. The Office notes that:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Accordingly, to correct the deficiency, petitioner must submit a declaration setting forth the full name, residence, post office address, and citizenship of Jon Horner. Additionally, the declaration must be signed on behalf of the nonsigning inventor in compliance with 37 CFR 1.63 and 1.64 as indicated above.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

Brian M. Berliner
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles CA 90071-2899

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OCT 2 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Jon Horner	:	DECISION GRANTING STATUS
Application No. 11/078,034	:	UNDER 37 CFR 1.47(b)
Filed: March 11, 2005	:	
Attorney Docket No. 775475-72	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed September 30, 2005.

The petition is granted.

Petitioner showed that Jon Horner, the non-signing inventor, refused to join in the application after being mailed the application papers via certified mail. Petitioner demonstrated that SEMTECH has a proprietary interest in the above-identified application with the copy of an Invention Assignment & Secrecy Agreement, showing that the inventor had an obligation to assign any patent rights to SEMTECH. Petitioner submitted the requisite fees and a declaration in compliance with 37 CFR 1.63 and 1.64. Additionally, petitioner indicated that such action was necessary to prevent irreparable damage.

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

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

This matter is being referred to Technology Center Art Unit 2838 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Jon Horner
889 Ashley Drive
Simi Valley, CA 93065

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OCT 24 2005

OFFICE OF PETITIONS

In re Application of :
Jon Horner :
Application No. 11/078,034 : LETTER
Filed: March 11, 2005 :
Attorney Docket No. 775475-72 :

Dear Mr. Horner:

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

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

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

Christina T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Brian M. Berliner
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles CA 90071-2899

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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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of Sun et al. :
Application No. 11/078,035 :
Filing Date: March 11, 2005 :
Attorney Docket No. 2004P04369US01 :

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

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 23, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in an amendment previously filed October 23, 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 application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2624 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/078,035	03/11/2005	2624	1130	2004P04369 US01	20	3

CONFIRMATION NO. 1694

CORRECTED FILING RECEIPT

28524
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

OC000000036460076

Date Mailed: 06/12/2009

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)

Ying Sun, Plainsboro, NJ;
Marie-Pierre Jolly, Hillsborough, NJ;
Jose M.F. Moura, Pittsburgh, PA;

Power of Attorney: The patent practitioners associated with Customer Number 28524

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/553,216 03/15/2004
and is a CIP of 09/970,552 10/04/2001 PAT 6,961,454

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/078,035**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Contrast-invariant registration of cardiac and renal magnetic resonance perfusion images

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FEB 2 8 2007

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

William S. Frommer, Esq.
Frommer Lawrence & Haug LLP
10th Fl.
745 Fifth Avenue
New York NY 10151

In re Application of
TAKASU, NOBUYUKI, et al.
Application No. 11/078,041
Filed: March 11, 2005
For: **EDITING APPARATUS AND DATA EDITING METHOD**

DECISION ON PETITION
FOR REMAILING

This is a decision on the petition requesting re-mailing of the Notice of Allowance, filed September 11, 2006

This application is in an abandoned status for failure to pay the issue fee in response to the Notice of Allowance and Issue Fee Due mailed May 18, 2006. A Notice of Abandonment has not been mailed.

Petitioner alleges non-receipt of the Notice of Allowance mailed May 18, 2006. In support of the petition, petitioner has provided a statement that the Office action was not received. In addition, attached to and reference in the petition is a copy of the docket record showing all incoming mail from the United States Patent and Trademark Office (Office) with a mailing date of May 18, 2006.

A review of the record indicates that the Notice of Allowance papers were returned to the Office by the U.S. Postal service on May 26, 2006. Although there is no finding of irregularity in the correspondence address, there was an obvious irregularity in mailing since the Notice of Allowance papers were returned.

The holding of Abandonment is withdrawn. The petition is **GRANTED.**

The application file will be forwarded to the Technology Center's technical support staff for mailing a new Notice of Allowance and Issue Fee Due and for re-mailing the Notice of Allowability which was also originally mailed on May 18, 2006. The statutory period for submitting the issue fee will be set to run from the mailing of the new Notice of Allowance.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/078,046	03/10/2005	2875	1000	81876.0088	3	17	2

CONFIRMATION NO. 1701

CORRECTED FILING RECEIPT

OC000000016160980

000026021
HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

Date Mailed: 06/01/2005

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

Applicant(s)

Kunihiro Komiya, Kyoto, JAPAN;
Atsushi Kitagawa, Kyoto, JAPAN;

Assignment For Published Patent Application

ROHM CO., LTD.

Power of Attorney: The patent practitioners associated with Customer Number **26021**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-072109 03/15/2004

If Required, Foreign Filing License Granted: 04/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/078,046

Projected Publication Date: 09/15/2005

Non-Publication Request: No

Early Publication Request: No

Title

Light emitting element driving device and portable apparatus equipped with light emitting elements

Preliminary Class

362

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON VA 20191

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OFFICE OF PETITIONS

In re Application of	:	
Ali AWASIS	:	
Application No. 11/078,059	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. 2870-004	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 16, 2005.

The request is **APPROVED**.

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

The request was signed by Jon L. Roberts on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

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

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: Ali Awais
2147 Newhall Street, Apt # 514
Santa Clara, CA 95050

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

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
11/078,059	03/11/2005	Ali Awais	2870-004

CONFIRMATION NO. 1235

OC000000019831589

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

Date Mailed: 07/31/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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P.O. Box 1450
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Frederick W. Gibb, II
Gibb Intellectual Property Law Firm, LLC
2568-A Riva Road
Suite 304
Annapolis, MD 21401

COPY MAILED

JUN 0 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul R. Austin et al.	:	
Application No. 11/078,064	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. 20040956-US-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 November 16, 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 Frederick W. Gibb, II and all attorneys/agents of record has been revoked by the assignee of the patent application on December 8, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: FAY SHARPE / XEROX - ROCHESTER
1228 EUCLID AVENUE, 5TH FLOOR
THE HALLE BUILDING
CLEVELAND OH 44115

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

Mail Date: 04/21/2010

Applicant	: Leonard D. Barry	: DECISION ON REQUEST FOR
Patent Number	: 7618224	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,066	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DIW Dec-05

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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DEC 12 2005

OFFICE OF PETITIONS

In re Application of	:
Khuti, Coleman, Rath, Rakaczky,	: DECISION REFUSING STATUS
Leslie, Peralta, and Simpson	: UNDER 37 CFR 1.47(a)
Application No. 11/078,082	:
Filed: 11 March, 2005	:
Atty Docket No. 102314-0167	:

This is in response to the petition under 37 CFR 1.47(a) filed on 17 November, 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 11 March, 2005, without an executed oath or declaration.

Accordingly, on 20 April, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 17 November, 2005 (certificate of mailing date 7 November, 2005), a petition under 37 CFR 1.47(a) and fee were filed, along with the late-filing surcharge, a five (5)-month extension of time, and a declaration naming Bharat Khuti, Clayton Coleman, David Rath, Ernest Rakaczky, Jim Leslie, Juan Peralta, and George Simpson as joint inventors. The declaration was signed by all of the inventors except Peralta on behalf of themselves and non-signing inventor Peralta.

Petitioners assert that a copy of the application was sent to the last known address of Peraulta, but that he did not return an executed 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).

In regards to item (1), petitioners have not shown that joint inventor Peralta was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Based on the showing of record, it does not appear that the specification, including claims, and the drawings, were among the application papers sent to the non-signing inventor.

Specifically, it is noted that although the petition and states that non-signing inventor Peralta's last known address is 544 Maple Street, Lambert, Quebec, Canada, the copy of the cover letter dated 20 June, 2005, provided with the petition lists Peralta's address as 108 Brown Lane, Simpsonville, SC 29681, the same address as listed for joint inventor Simpson in the declaration. As such, the showing of record is that the application papers intended to be sent to the non-signing inventor may have been misaddressed and may not have actually been sent to his last known address. Petitioners should verify that the envelope containing the application papers was in fact sent to the last known address of non-signing inventor Peralta.

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

[1] MPEP 409.03(d).

(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.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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MAY 26 2006
OFFICE OF PETITIONS

In re Application of	:
Khuti, Coleman, Rath, Rakaczky,	: DECISION ACCORDING STATUS
Leslie, Peralta, and Simpson	: UNDER 37 CFR 1.47(a)
Application No. 11/078,082	:
Filed: 11 March, 2005	:
Atty Docket No. 102314-0167	:

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 16 March, 2006 (certificate of mailing date 13 March, 2006).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Juan Peralta, has refused to sign and return the declaration after having been sent a copy of the application. Specifically, petitioners have shown, via the declaration of joint inventor Ernest Rakaczky, that non-signing inventor Peralta had orally acknowledged receipt of the application papers on two occasions, but that the non-signing inventor failed to sign and return the declaration naming him as a joint inventor along with Bharat Khuti, Clayton Coleman, David Rath, Ernest Rakaczky, Jim Leslie, and George Simpson.

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

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

The application is being referred to the Technology Center for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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DIW May-06

Juan Peralta
544 Maple Street
Lambert QC J4P 2S7
CANADA

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

In re Application of
Khuti et al.
Application No. 11/078,082
Filed: 11 March, 2005
For: PROCESS CONTROL METHODS AND APPARATUS FOR INTRUSION DETECTION, PROTECTION AND NETWORK HARDENING

Dear Mr. Peralta:

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).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Bharat Khuti	: DECISION ON REQUEST FOR
Patent Number	: 7614083	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/078,094	03/11/2005	Madan Ganesh Velayudham	B-5655 622498-7	8234

7590 04/14/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
2142	

NOTIFICATION DATE	DELIVERY MODE
04/14/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/15/2008 DTERRY
03/16/2005 CNGUYEN 00000023 082025 11078094
02 FC:1111 500.00 CR
04 FC:1202 100.00 CR

FORM PET651G (Rev. 08/07)

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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
11/078,111	03/09/2005	1722	525	CAS1.PAU.29.A	7	21	3

CONFIRMATION NO. 6126

CORRECTED FILING RECEIPT

OC000000015952336

Myers Dawes Andras & Sherman LLP
Suite 1150
19900 MacArthur Blvd.
Irvine, CA 92612

Date Mailed: 05/05/2005

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)

Michael Herrera, Los Alamitos, CA;

Power of Attorney:

Richard Myers--26490
Daniel Dawes--27123
Norman Carte--30455
David Henty--31323
Joseph Andras--33469
Kenneth Sherman--33783
John Eldredge--37613
Vic Lin--43754
Timothy Fitzwilliam--46439

Domestic Priority data as claimed by applicant

This application is a DIV of 10/346,362 01/17/2003

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/078,111

Projected Publication Date: 08/11/2005

Non-Publication Request: No

Early Publication Request: No

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** SMALL ENTITY **

Title

Dough stripping assembly for dough sheeting machines

Preliminary Class

425

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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TUTUNJIAN & BITETTO, P.C.
20 CROSSWAYS PARK NORTH, SUITE 210
WOODBURY, NY 11797

Mail Date: 04/21/2010

Applicant	: Guruduth Somasekhara Banavar	: DECISION ON REQUEST FOR
Patent Number	: 7603115	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,112	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FROM DIRECTORS OFFICE

NOV 0 9 2005

TECHNOLOGY CENTER 3600

CONLEY ROSE, P.C.
P.O. BOX 3267
HOUSTON, TX 77253-3267

In re application of	:	**DECISION ON PETITION**
Hans P. Hopper et al.	:	**TO MAKE SPECIAL**
Application No. 11/078,121	:	**(INFRINGEMENT)**
Filed: March 10, 2005	:	
For: WELL OPERATIONS SYSTEM		

This is a decision on the petition under 37 C.F.R § 1.102(d) filed March 10, 2005 to make the above-identified application special.

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

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

The petition filed March 10, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on March 10, 2005.

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/slb: 11/02/05

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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS OH 44143

COPY MAILED

FEB 12 2007

OFFICE OF PETITIONS

Applicant: Thallner
Appl. No.: 11/078,136
Filing Date: March 11, 2005
Title: DEVICE AND METHOD FOR THE APPLICATION OF A SHEET-LIKE JOINTING MEANS ONTO A CONTACT AREA OF A WAFER
Attorney Docket No.: BE9088US
Pub. No.: US 2005/0199330 A1
Pub. Date: September 15, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 8, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains several material errors, in the specification.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication received on February 8, 2006, was not timely filed under 37 CFR 1.221(b).

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] 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).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MERIT MEDICAL SYSTEMS, INC.
C/O STOEL RIVES, LLP
ONE UTAH CENTER
201 SOUTH MAIN STREET -- SUITE 1100
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Nicholas Gerald Accisano III	: DECISION ON REQUEST FOR
Patent Number	: 7641630	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,140	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1028** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TROUTMAN SANDERS LLP
600 Peachtree Street, NE
Suite 5200
Atlanta, GA 30308

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JAN 15 2009

In re Application of	:	
Jan Albert DE VRIES et al.	:	
Application No. 11/078,146	:	ON PETITION
Filed: March 11, 2005	:	
Attorney Docket No. BROOK3	:	

This is in response to the petition under 37 CFR 1.183, filed April 3, 2008, on behalf of Broockeville Corporation, N.V., requesting waiver of the requirements of 37 CFR 1.32(b)(4).

The petition is **GRANTED** to the extent indicated below.

Petitioner, Broockeville Corporation, N.V. (Broockeville), requests the USPTO to: (1) appoint practioners associated with Customer Number 6980 as its sole representative before the USPTO; and (2) waive the single signature requirements of Rule 1.32(b)(4) as Melvin Stoltz (Stoltz) in a letter to Broockeville dated March 27, 2006 terminated his attorney/client relationship with Broockeville due to a conflict of interest.

The application as filed named Jan Albert de Vries (de Vries), James P. Seaton (Seaton), and Linda Trebing (Trebing) as inventors. All three of the inventors gave Power of Attorney to the practitioners associated with Customer Number 27106, *i.e.*, Stoltz. Inventorship is the starting point for determining ownership. *See University Patents, Inc. v. Kligman*, 762 F. Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991). Unless there is an assignment, the USPTO will presume the named inventor(s) to be the owner(s), see 37 CFR 3.73(a). The only evidence of assignment recorded against the instant application is that recorded at reel 018094 frame 0856 in which de Vries assigned his rights to Broockeville. Thus, Seaton, Trebing, and Broockeville each have an equal interest in the instant application. *See Ethicon, Inc. v. United States Surgical Corp.*, 135 F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir. 1998), *cert denied*, 525 U.S. 923 (1998). As such, Broockeville does not own the entire interest in this application; rather Broockeville is but a *partial* assignee. But see 37 CFR 3.71(b)(2). However, only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. *See In re Goldstein*, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988); see also *In re Scold*, 195

USPQ 335,336 (Comm'r Pat. 1976); *Ex parte Harrison,* 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR §§ 1.36, 3.71, and 3.73(b)) serve to assure that papers filed with USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. *See Goldstein*, 16 USPQ2d at 1964. Accordingly, it would also be contrary to intent of the regulations to permit *ex parte*, by waiver of the rules, Broockeville to unilaterally extinguish the property rights that Seaton and Trebing have in this application. Since Broockeville, Seaton, and Trebing are not in agreement, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the other(s).

In accordance with MPEP 402.10, the requested appointment of the practitioners associated with Customer Number 06980 to represent Broockeville as the intervening successor in title to Jan Albert de Vries is **granted** as of the mail date of this decision.

Additionally, there may be a conflict under 37 CFR 10.66. Unless the potential conflict has been consented to by the respective clients, Stoltz may not continue to represent any of the clients. If no consent has been given any further responses must be signed by Seaton and Trebing, or another registered practitioner appointed by them, and by a registered practitioner appointed by Broockeville.

In order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent—must be signed by both: (1) Stoltz, if appropriate, or other registered practitioner(s) who represents Seaton and Trebing, or Seaton and Trebing; and (2) a registered practitioner of Customer Number 06980 who represents Broockeville. Any counsel when signing subsequent papers must indicate whom he or she represents. The registered practitioner of Customer Number 06980 will also be responsible for coordinating replies or submissions to the USPTO. See MPEP 402.10.

In view of the above decision, the correspondence address is being changed to that of Customer Number 06980.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

A review of the Technology Center Director's decision mailed December 4, 2007, indicates that the USPTO would not accept any further papers signed by less than all three Applicants, or by an Assignee of less that the entire right, title and interest. Accordingly, the requirement for the joint signatures of counsel for each party on every forthcoming communication was quite clear and unambiguous. Stoltz was advised that further correspondence filed herein was required to be signed by counsel for **each party**. Stoltz filed a reply on March 3, 2008 and has chosen to ignore that requirement.

This application is being referred to Technology Center 3700. The Technology Center is advised that: (1) any communication filed subsequent to the December 4, 2007 mailing date of the Technology Center Director's decision and prior to the mailing date of the instant decision, not signed by each of the Applicant's or by duly appointed counsel for **each party** must be regarded as informal, and as such, to take such action it deems appropriate; and (2) any communication filed on or after the mailing date of this decision not signed in accordance with this decision must also be regarded as informal, and as such, to take such action it deems appropriate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

Cc: Melvin I. Stoltz
51 Cherry Street
Milford CT 06460

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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
11/078,192	03/11/2005	2113	1000	P/3258-14	10	16	2

CONFIRMATION NO. 2053

CORRECTED FILING RECEIPT

OC000000015980263

000002352
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Date Mailed: 05/11/2005

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

Applicant(s)

Joichi Nishimura, Horikawa-dori, JAPAN;
Masami Ohtani, Horikawa-dori, JAPAN;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-68553 03/11/2004

If Required, Foreign Filing License Granted: 04/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/078,192

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

Non-Publication Request: No

Early Publication Request: No

Title

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Substrate processing apparatus and substrate processing method

Preliminary Class
714

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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 05/20/2010

Applicant	: S. James Biggs	: DECISION ON REQUEST FOR
Patent Number	: 7665300	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/078,195	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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MAR 23 2010

OFFICE OF PETITIONS

In re Patent of Tai	:	DECISION ON REQUEST
Patent No. 7,570,561	:	FOR RECONSIDERATION OF
Issue Date: August 4, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/078,221	:	AND NOTICE OF INTENT TO
Filing Date: March 9, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 320528657US3	:	CORRECTION

This is a decision on the petition filed on October 5, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting 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 twenty-five (925) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-five (925) days is **GRANTED to the extent indicated herein**.

Patentee asserts the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 373 days. A review of the chart at the bottom of the second page of the petition indicates patentee appears to have calculated B Delay using a date of issuance of March 17, 2009. The Office agrees, if the patent had issued on March 17, 2009, B Delay would be 373 days. However, the patent actually issued on August 4, 2009. Therefore, the period of B Delay is 513 days, which is the number of days beginning on March 10, 2008, the day after the date three years after the date on which the application was filed under 35 U.S.C. 111(a), and ending on August 4, 2009, the date the patent issued.

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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

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

The application is being forwarded to the Certificates of 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-five (1,065)** days.

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

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,570,561 B2
ISSUE DATE	:	August 4, 2009
INVENTOR(S)	:	Tai

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 609 days.

Delete the phrase "by 609 days" and insert - by 1065 days--

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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
11/078,235	03/10/2005	2661	3150	050374	22	43	8

CONFIRMATION NO. 1045

CORRECTED FILING RECEIPT

OC000000016060218

23696
Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

Date Mailed: 05/19/2005

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)

Kenny Fok, Residence Not Provided;
Eric Yip, Residence Not Provided;
Jill Hwang, Residence Not Provided;
Lenaig Guellec, Residence Not Provided;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/078,235

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

Non-Publication Request: No

Early Publication Request: No

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Title

Apparatus and methods for determining connection quality of a wireless device on a wireless communications network

Preliminary Class

370

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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JUN 3 0 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

KALON LEE KELLEY
149 RAMETTO ROAD
SANTA BARBARA CA 93108

In re Application of	:	
Kalon Lee Kelley	:	
Application No. 11/078,239	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO MAKE SPECIAL
For: **MOTOR VEHICLE OCCUPANCY**	:	
SIGNALING SYSTEM	:	

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed March 14, 2005, which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a statement that Kalon Lee Kelley is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

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AVERILL & VARN
8244 PAINTER AVE.
WHITTIER CA 90602

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DEC 20 2006

OFFICE OF PETITIONS

In re Application of Douglas Lloyd Dalton et al Application No. 11/078,242 Filed: March 14, 2005 Attorney Docket No. 132/58	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of June 8, 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 Patent Publication.

Karen Creasy
Petitions Examiner
Office of Petitions

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Hung-Jen CHU et al.	:	
Application No. 11/078,245	:	DECISION ON PETITION
Filed: March 09, 2005	:	
Attorney Docket No. 386998033US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 19, 2007, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A one (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 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 $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. Accordingly, the reply to the final Office action of October 19, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2826 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason

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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JOHN ZEBALA, PRESIDENT
SYNTRIX BIOCHIP, INC
215 CLAY STREET NW
SUITE B-5
AUBURN W, WA 98001

COPY MAILED

OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
John A. Zebala	:	
Application No. 11/078,271	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 7.012	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed September 16, 2005, to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer and biotechnology applications filed by small entities, as set forth in M.P.E.P. § 708.02, Sections X and XII.

The petition based on biotechnology applications filed by small entities is **GRANTED**.

The petition based on developing treatments and cures for HIV/AIDS or cancer is **DISMISSED** as moot since special status has been accorded to this application on other grounds as addressed below.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section XII: Biotechnology applications filed by small entities, must (A) state that small entity status has been established or include a statement establishing small entity; (B) state that the subject of the patent application is a major asset of the small entity; and (C) state that the development of the technology will be significantly impaired if examination of the application is delay, including an explanation of the basis for making the statement.

The petition has been reviewed. Since the statements in support of the other case are similar to the statements submitted in the instant petition, the instant petition has been granted and accorded "special status" to be consistent with other case.

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

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

This matter is being referred to the Technology Center Art Unit 1614 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

John V. Kraft et. al.

Serial No. 11/078273

Filed: 03/11/2005

Date: March ~~11~~ 12, 2005

1724
Savage, Matthew

For: METHOD AND SYSTEM FOR CONTROLLING WATER SYSTEM FOULING

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

PETITION TO MAKE SPECIAL PURSUANT TO 37 C.F.R. § 1.102 ON THE BASIS OF ENVIRONMENTAL QUALITY

BACKGROUND

Those applications that materially enhance the quality of the environment have been deemed so important to the well being of the populace that 37 C.F.R. § 1.102 provides for their special treatment within the Patent Office. Applicants respectfully submit that the present invention enhances the quality of the environment and request that the above-referenced application be granted special status.

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700 JUL - 6 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

Perkins Coie LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of
David Eppert
Application No. 11/078,283
Filed: March 14, 2005
Attorney Docket No. 2476-104

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed May 12, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that William A. Birdwell does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

It is noted that the power of attorney filed March 6, 2008 is not proper in that the Statement under 37 CFR 3.73(b) does not set forth the proper chain of title.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: David Wright Tremaine, LLP/Portland
1300 S.W. Fifth Avenue
Suite 2300
Portland, OR 97201-5630

UNITED STATES PATENT AND TRADEMARK OFFICE

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Perkins Coie, LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

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NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of	:	
David Eppert	:	
Application No. 11/078,283	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 2476-104	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 10, 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 Christopher J. Daley-Watson on behalf of all attorneys/agents associated with customer number 25096. All attorneys/agents associated with customer number 25096 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Cogneto Ltd.
Attn: Adrian Beeston
15 Poland Avenue, 3rd Floor
London, United Kingdom W1F 8QE

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/078,283	03/14/2005	David Eppert	2476-104

CONFIRMATION NO. 9500

POWER OF ATTORNEY NOTICE

25096
PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

OC000000032907203

Date Mailed: 10/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/kainabinet/

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

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

Paper No. None

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of
SHIGERU KAKUGAWA et al.
Application No. 11/078,360
Filed: March 14, 2005
Attorney Docket No. 520.42738CX1
Title: NMR MAGNET DEVICE FOR SOLUTION ANALYSIS AND NMR APPARATUS

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.182, filed June 20, 2005, requesting that the above-identified application be accorded a filing date of March 14, 2005, with Figures 10 and 11 as part of the original disclosure of the application.

The application was deposited on March 14, 2005. However, on May 9, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application – Filing Date Granted" (notice) stating that the application had been accorded a filing date, and advising applicants that it appeared as though the application was deposited without Figures 10 and 11. The notice set a two-month period for response.

On June 20, 2005, the instant petition was filed, along with a copy of Figures 10 and 11. The petition fee of $400 has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has not contended that these pages were present on filing. While it appears that these pages were omitted on filing, Petitioner contends they were constructively included, through incorporation by reference.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted. The specification indicates that the instant application is a continuation of application 10/430,340, and the specification indicates that the entire disclosure of the parent application is incorporated by reference.

Section 201.06(c) of the MPEP sets forth, in part:

an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The incorporation by reference statement can only be relied upon to permit the entering of a portion of the prior application into the continuation or divisional application when the portion of the prior application has been inadvertently omitted from the submitted application papers in the continuation or divisional application. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition (emphasis added) provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference.

For this reason, the petition under 37 CFR §182 is **DISMISSED**.

The application will receive a filing date of March 14, 2005, however, Figures 10 and 11 submitted with the instant petition will not be entered. If Petitioner desires for the missing pages to be included, he should submit them via an amendment. This amendment, of course, will not be entered until it has been reviewed by the examiner for new matter[1]. The amendment is not new matter if the substance was a part of the disclosure of the prior application.

The original application papers will include only those application papers present on the date of deposit.

The petition fee of $400.00 will not be refunded, as this petition was not necessitated by any error on the part of the Office.

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

Paul Shanoski

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

1 See MPEP 608.02(a).

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United States Patent and Trademark Office
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OYEN, WIGGS, GREEN & MUTALA LLP
480 - THE STATION
601 WEST CORDOVA STREET
VANCOUVER, BC V6B 1G1
CANADA

Mail Date: 04/20/2010

Applicant	: George Glen Gilbert	: DECISION ON REQUEST FOR
Patent Number	: 7650933	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,374	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1062** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BOYLE FREDRICKSON S.C.
840 NORTH PLANKINTON AVENUE
MILWAUKEE WI 53203

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DEC 16 2009

OFFICE OF PETITIONS

In re Application of
Hull
Application No. 11/078,388
Filed: 14 March, 2005
Attorney Docket No. 1870.025

DECISION ON PETITION

This is a decision on the petition filed 2 November, 2009, and pursuant to 37 C.F.R. §1.183 to suspend the rules requiring the signature of the sole inventor for a declaration pursuant to 37 C.F.R. §1.131 (to be demonstrated in a fashion generally utilized in a petition pursuant to 37 C.F.R. §1.47).

The petition pursuant to 37 C.F.R. §1.183 is **DISMISSED;** The petition pursuant to 37 C.F.R. §1.131 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 Pursuant to 37 C.F.R. §1.183." Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

BACKGROUND

This application was filed on 14 March, 2005, and an executed oath/declaration was filed on that date, naming Richard Hull (Mr. Hull) as the sole inventor.

On 2 November, 2009, an unsigned declaration pursuant to 37 C.F.R. §1.131 was filed.

Petitioner Matthew E. Corr (Reg. 45,434) files the present petition to waive the signature requirement of sole inventor Richard Hull, and in support of the petition sets forth that inventor cannot be reached or has refused to sign.

ANALYSIS

It is noted from the outset that:

- Petitioner authorized no proper fee for the petition pursuant to 37 C.F.R. §1.183.
- A search was made to determine if Petitioner had a general fee authorization in the application—the one possible alternative, filed on day of deposit of the application, does not state explicitly that the authorization is to be considered valid throughout prosecution;

The Office may not consider the petition without the fee—the fee is jurisdictional.

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an "extraordinary situation, when justice requires."

The regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation:

> **§1.183 Suspension of rules.**
>
> 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). (Emphasis supplied.)

The facts presented on the record do not adequately establish an extraordinary situation: Petitioner has yet to establish sufficiently special circumstances that would require suspension of the rules in the interests of justice.

Specifically, Petitioner's has made an incomplete/insufficient showing of (diligent) efforts to obtain signing by the sole inventor (to be demonstrated in a fashion generally utilized in a petition pursuant to 37 C.F.R. §1.47). (*See*, MPEP § 409.03, *et seq.*)

Petitioner submits, *inter alia*:

- a statement by Wolfgang P. Ludwig, averred CEO/President and Emails from a Jace Jordon, averred Product Development Manager, of averred Assignee;
- a (dimly) stamped mail receipt, which is linked to no other document;

- a statement on behalf of Mr. Hull, but which attests to activities in which he was not involved (e.g., phone calls to third parties); and

- an Email from Mr. Hull indicating that some of the information in materials sent to him is incorrect.

There does not appear to be a showing that a specific document was sent to and was received by Mr. Hull with a request that he execute and return same by a date certain, and he thereafter failed or otherwise refused to sign.

Where an inventor is unavailable, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. Along with statement of facts submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts, the documentary support for the averments/statements/declarations are necessary. (*See*, generally, MPEP § 409.03, *et seq.*.)

Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. (*See*, MPEP § 409.03(d).)

Further, Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability will be required.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

CONCLUSION

The petition is **dismissed** without prejudice.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

With any request for reconsideration, Petitioner **must** include the necessary statements and copies of supporting documents.

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

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

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

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

Telephone inquiries 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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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GOWLING LAFLEUR HENDERSON LLP (RIM)
160 ELGIN STREET, SUITE 2600
OTTAWA, ON K1P 1C3
CANADA

Mail Date: 07/20/2010

Applicant	: Michael Shenfield	: DECISION ON REQUEST FOR
Patent Number	: 7657868	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/078,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/078,446	03/14/2005	David John Butcher	550-634	8579

23117 7590 01/23/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
ALROBAYE, IDRISS N

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
01/23/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of: David John BUTCHER
Application No. 11/078,446
Filed: March 14, 2005
For: FUNCTION CALLING MECHANISM

DECISION ON PETITION

This is a decision on the petition filed on October 10, 2008, under 37 CFR 1.181(a) to invoke Supervisory Authority requesting that the reference, "A Pipeline Push-Down Stack Computer" by H.Stone, submitted with the IDS filed on March 18, 2005 be considered by the Examiner and that the respective form be signed and returned indicating a consideration of the above mentioned reference.

A review of the file wrapper record shows that a PTO-form 1449, containing the above mentioned reference, duly considered, was mailed by examiner in the instant application on January 8, 2009.

Accordingly, in view of the above stated reason, the instant petition, filed under 37 CFR §1.181 in this application, is rendered moot.

Accordingly, the Petition is **DISMISSED as moot**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/078,446	03/14/2005	David John Butcher	550-634	8579

23117 7590 06/09/2009
NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
ALROBAYE, IDRISS N

ART UNIT	PAPER NUMBER
2183	

MAIL DATE	DELIVERY MODE
06/09/2009	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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of: David John BUTCHER
Application No. 11/078,446
Filed: March 14, 2005
For: FUNCTION CALLING MECHANISM

DECISION ON PETITION

This is a decision on the petition filed on February 3, 2009, under 37 CFR 1.181(a) to invoke Supervisory Authority requesting that a new office action be mailed in the instant application.

A review of the file wrapper record shows that a Non-Final office action was mailed by examiner in the instant application on March 2, 2009, in which Examiner has also indicated the withdrawal of the finality of the office action mailed July 10, 2008.

Accordingly, the instant petition, filed under 37 CFR §1.181 in this application, is rendered moot.

Accordingly, the Petition is **DISMISSED as moot**.

Any request for reconsideration must be filed within two months of the mailing date of this decision.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

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Paper No.

BUTZEL LONG
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

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JUN 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Christopher Mazzola	:	
Application No. 11/078,450	:	
Filed: March 11, 2005	:	ON PETITION
Atty Docket No. 131999-0001	:	

This is a decision on "PETITION UNDER 37 CFR §1.182 TO MAINTAIN ORIGINAL FILING DATE AND PRELIMINARY AMENDMENT TO DRAWINGS," filed June 1, 2005, requesting, in effect, that the "Notice to File Corrected Application Papers" mailed April 11, 2005 be withdrawn.

Application papers in the above-identified application were filed on March 11, 2005. On April 11, 2005, the Initial Patent Examination Division mailed a Notice to File Corrected Application Papers, informing applicant inter alia that replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d) were required. In addition, Figures 5 and 6 described in the specification appeared to have been omitted.

In reply, applicant timely filed the instant petition. Therein, petitioner attempts to maintain the original filing date of March 11, 2005 and amend the application to include formal drawings of Figs. 1-4 and new Figures 5 and 6. Petitioner asserts that new Figs. 5 and 6 do not add any new matter to the application inasmuch as these figures are fully discussed in applicant's originally filed specification.

The application file is the Official record of what was received in the Office. A review of the instant application file reveals that Figures 5 and 6 were not among the papers filed on March 11, 2005, mislabeled or otherwise. The application as filed included four unlabeled figures. In fact, petitioner appears to concede that figures 5 and 6 were not present in the application on filing. (Petitioner has submitted no evidence to support a claim that Figures 5 and 6 were among the papers filed on March 11, 2005 (e.g., itemized postcard receipt)).

Moreover, papers not present in the application on filing cannot be considered part of the original application disclosure. The option of amending the application (Option III), cited by applicant, does not allow for amending of the application to include figures not present in the application on filing. Whether the application can be amended to include figures 5 and 6 on the basis that these figures do not contain new matter is an issue for consideration by the examiner. The replacement sheet containing figures 5 and 6 will **not** be entered on petition.

It is concluded that the "Notice to File Corrected Application Papers" mailed April 11, 2005, was correct in stating that Figures 5 and 6 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is **DISMISSED**.

Receipt of the petition fee is acknowledged.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Julia Moffitt	: DECISION ON REQUEST FOR
Patent Number	: 7587238	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,460	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **935** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Thomas W. Lynch	: DECISION ON REQUEST FOR
Patent Number	: 7593989	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,471	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Armen SAGHATELYAN, et al	:	
Application No. 11/078,479	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 03495.0331-00	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 24, 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).

Deborah Katz has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding Office actions pending at the present time.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of
Ralph Alderson, et al.
Application No.: 11/078,507
Filed: March 14, 2005
Attorney Docket No.: 1488.1980006/PAJ/LMB

ON PETITION

This is a decision on the petition, filed November 10, 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 August 14, 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 1647 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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STERNE, KESSLER, GOLDSTEIN &
FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Patent No. 7,524,501	:
Issued: April 28, 2009	:
Application No. 11/078,507	: PATENT TERM ADJUSTMENT
Filed: March 14, 2005	:
Dkt. No.: 1488.1980006/PAJ/LMB	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed on March 19, 2009. Patentees request that the Patent Term Adjustment for the above-identified patent be increased by eighty-two (82) days from 213 days to 295 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 295 days.

BACKGROUND

A Notice of Allowance was mailed in this application on December 30, 2008. On March 19, 2009, the instant request for reconsideration of patent term adjustment was timely filed under 37 CFR 1.705(b). Patentees argued, in essence, that pursuant to Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), the instant application was entitled to additional adjustment pursuant to 37 CFR 1.702(b). Patentees asserted 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 maintained that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) was 393 (311 + 82) days as these periods do not occur on the same day. Further, given the applicant delay of 98 days, patentees asserted entitlement to 295 (393 – 98) days of patent term adjustment.

Prior to a decision on the merits of the request filed March 19, 2009, the application issued as U.S. Patent No. 7,524,501 with a patent term adjustment of 295 days.

At the time of the filing of a request for continued examination (RCE) on November 10, 2008, the instant application was pending three years and 82 days. The Office determined that the 82

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 311 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 311 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 98 days, the patent issued with a revised patent term adjustment of 213 (311 – 98) days.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

As explained in *Explanation of 37 CFR 1.703(f)*[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. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704

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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.

(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 (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date, March 14, 2005, and ending on the date of filing of a request for continued examination (RCE), June 4, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 311 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 82 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application, time having ceased accruing upon submission of the RCE.

The 82 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 311 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 311 days and the 82 days is neither permitted nor warranted. The actual number of days issuance of the patent was delayed is 311.

CONCLUSION

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent is 213 (311 – 82) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). The duplicate fee payment of $200.00 will be refunded to counsel. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Shunpei Yamazaki et al
Application No. 11/078,521
Filed: March 14, 2005
Attorney Docket No. 740756-2822

DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed June 6, 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 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 11/078,521	:	DECISION ON PETITION
Filed: March 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2822	:	

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

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c).

Petitioner states that the issue fee was paid on October 12, 2007, which is after the due date of October 5, 2007. Additionally, Office finance records do not show that the issue fee was paid on October 12, 2007. Therefore, the application is abandoned for failure to timely pay the issue fee on or before October 5, 2007 in view of the Notice of Allowance mailed July 5, 2007. A notice of abandonment was mailed on October 30, 2007.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted at this time.

Petitioner may wish to consider the filling of a petition to revive under 37 CFR 1.137(b).

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

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

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

By fax: **(571) 273-0025**
Office of Petitions

Any questions concerning this matter may be directed to 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	:	
Shunpei Yamazaki et al	:	
Application No. 11/078,521	:	DECISION GRANTING PETITIONS
Filed: March 14, 2005	:	UNDER 37 CFR 1.137(b) AND
Attorney Docket No. 740756-2822	:	37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 5, 2007, under 37 CFR 1.137(b), to revive the above-identified unintentionally abandoned application and supplemental to the petition filed November 2, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue.

The petitions are **GRANTED**.

As to the petition under 37 CFR 1.137(b):

This application became abandoned for failure to timely pay the issue fee on or before October 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 5, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has submitted (1) payment of the $1440 issue fee , (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Accordingly, the reply to the Notice of July 5, 2007 is accepted as having been unintentionally delayed.

As to the petition under 37 CFR 1.313(c)(2):

Petitioner requests withdrawal of this application from issue for consideration of a submission under 37 CFR 1.114.

The petition satisfies the requirements of 37 CFR 1.313(c)(2). Accordingly, this application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (RCE).

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

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

This matter is being referred to Technology Center AU 2891 for processing the RCE and for consideration of the Information Disclosure Statement submitted on November 2, 2007.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] **Error! Main Document Only.** *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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MAY 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al	:	
Application No. 11/078,521	:	DECISION GRANTING PETITION
Filed: March 14, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2822	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 28, 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 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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COMMISSIONER FOR PATENTS
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P.O. BOX 19928
ALEXANDRIA VA 22320

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MAY 1 9 2005

OFFICE OF PETITIONS

In re Application of
Shigehisa Kawabe et al.
Application No. 11/078,564
Filed: March 14, 2005
Attorney Docket No.: 123146
Title: STORAGE MEDIUM STORING DIRECTORY EDITING SUPPORT PROGRAM, DIRECTORY EDITING SUPPORT METHOD, AND DIRECTORY EDITING SUPPORT APPARATUS

DECISION ON PETITION

This is a decision on the petition filed May 3, 2005, requesting that Figure 7 be accorded a filing date of March 14, 2005, as part of the original disclosure.

The application was deposited on March 14, 2005. However, on April 13, 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 the application appeared to have been deposited without Figure 7. The notice set a two-month period for response.

In response, on May 3, 2005, applicants filed the present petition. The petition is further accompanied by a copy of Figure 7 and a copy of applicants' postcard receipt acknowledging receipt of "8 pp Drwgs (Figs 1-9)" in the United States Patent and Trademark Office (Office) on March 14, 2005. Applicants request that Figure 7 be accorded a filing date of March 14, 2005 as part of the original disclosure.

It is noted that 7 sheets of drawings have been located in the electronic file containing Figures 1-6 and 8-9.

Upon review of the record, the above-mentioned figure has not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 14, 2005 included Figure 7, and the sheet containing this figure was subsequently misplaced in the Office.

Therefore, the application, including Figure 7, was complete on filing and these figures are entitled to a filing date of March 14, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed April 13, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $400 will be refunded to Petitioner's Deposit Account as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 14, 2005, using the original application papers filed on that date, as well as Figure 7 submitted on May 3, 2005 with the instant petition and for indication in Office records that this figure was 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/078,591	03/11/2005	Shobha A. Varde	021594-005600US(04US0022)	4532

73643 7590 08/19/2008
Townsend and Townsend and Crew LLP
Two Embarcadero Center, 8th Floor
San Francisco, CA 94111

EXAMINER
BERTAGNA, ANGELA MARIE

ART UNIT	PAPER NUMBER
1637	

MAIL DATE	DELIVERY MODE
08/19/2008	PAPER

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

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

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AUG 1 9 2008

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Marc Karish
SHELDON MAK ROSE & ANDERSON
100 EAST CORSON STREET, THIRD FLOOR
PASADENA, CA 91103

In re Application of	:	
VARDE, SHOBHA ET AL.	:	
Serial No.: 11/078,591	:	Decision on Petition
Filed : March 11, 2005	:	
Attorney Docket No.: 15462/04ID0023	:	

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on October 25, 2007 requesting withdrawal of the restriction requirement. The delay in acting upon this petition is regretted.

BACKGROUND AND DISCUSSION

On December 21, 2006, the examiner mailed a restriction requirement in which the original claims 1-41 were divided in 3 groups and require a further restriction to one of the 266 oligonucleotides.

On April 19, 2007, Applicants elected Group I, claims 1-25 and 36-41 without traverse. Applicants elected SEQ ID NO: 1 with traverse stating that the claims are not directed to each particular oligonucleotide, but rather to a set of oligonucleotides which has highly beneficial properties. The traversal also noted the presence of generic claims that do not require any of the particular sequences.

On June 25, 2007, the examiner mailed to applicants a non-final Office action examining Claim 1-25, 36-41. The Office Action Summary further indicates that Claims 26-35 are withdrawn from consideration. The Office action rejected the claims on 35 U.S.C 112/2nd; 102 and 103.

On October 25, 2007, applicants filed this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and file history have been carefully considered.

The petition asserts the case is drawn to a set or group of oligonucleotides. The response clearly indicates that the invention is not direct to each particular oligonucleotide, but rather to a set of oligonucleotides, which, by virtue of its characteristics as a set, has highly beneficial properties.

Original Claim 1 is set forth below:

> 1. An assay system for an analyte, the system comprising:
>
> a) a solid support; and
>
> b) six or more pairs of oligonucleotides, each oligonucleotide of the pair is at least partially complementary to the other oligonucleotide of the pair, each pair comprises a first oligonucleotide and a second oligonucleotide, the first oligonucleotide comprising an analyte binding agent attached thereto, the second oligonucleotide being immobilized to the solid support; and
>
> wherein the oligonucleotides have a maximum of three consecutive identical nucleotides; and
>
> the oligonucleotides have less than 10% cross-hybridization when used in assays conducted at from about 37 °C to about 45°C.

The Examiner indicated that Claims 7 and 8 only require one sequences selected from the set. The Applicant asserts that the claims are directed to "each oligonucleotide". Thus, Applicant's interpretation of the claims appears to be consistent with the claim language. Claim 1 requires "6 or more pairs of different oligonucleotides". Claim 7 then limits Claim 1 by requiring that "each oligonucleotide contains at least 15 consecutive nucleotides from a different one of SEQ ID NO: 1-266."

MPEP 803.04 permits that a single combination of nucleotide sequence may be pursued.

For the claims that are drawn to combinations and subcombinations of specifically recited SEQ ID NO:s. the following requirement may be appropriate.

The claims are drawn to array systems comprising six or more pairs of different oligonucleotides (Claim 1). The claims are also drawn more narrowly to at least 15 consecutive nucleotides from SEQ ID NO: 1-266. The claims are directed to numerous distinct products recited in the alternative. The language "six or more pairs of different oligonucleotides" requires that 12, 14, 16 or any number more up to the 266 recited oligonucleotides in the system. For example, an assay system comprising SEQ ID NO: 1-12 is distinct from an assay system comprising SEQ ID NO: 13-25 because the assay systems have a different mode of operation, do not overlap in scope, and they are not obvious variants of one another (see MPEP 806.05(j)). As seen in Table 1, page 19-26, each of the oligonucleotides are distinct sequences.

The claims further encompass many subcombinations which are disclosed as usable together in a single combination and which are also separately usable. For example, consider the following combinations of "six or more pairs of different oligonucleotides" selected from those disclosed in SEQ ID NO: 1-266:

Subcombination (A): the oligonucleotides of SEQ ID NO: 1-25
Subcombination (B): the oligonucleotides of SEQ ID NO: 26-50
Combination (A+B): the oligonucleotides of SEQ ID NO: 1-50

Each of the combinations of oligonucleotides are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In this case subcombinations (A) and (B) do not overlap in scope and there is no evidence on the record to suggest that they are obvious variants of one another. The subcombinations are separately usable as evidenced by their presentation in the alternative within the claims. Further, subcombination "A" has separate utility such as detecting the SNP, as a marker, or for linkage studies, for examples . So, subcombinations (A) and (B) are distinct. See MPEP § 806.05(d).

These subcombinations are also distinct from the combination which comprises them because the combination does not require the particulars of the subcombination as claimed to show novelty or unobviousness and the subcombinations have utility by themselves or in another combination. The fact that the claim encompasses an embodiment which relies on only subcombination (B) is evidence that the details of subcombination (A) are not required for patentability of the combination (A+B), and likewise, the fact that the claim encompasses an embodiment which relies on only subcombination (A) is evidence that the details of subcombination (B) are not required for patentability of subcombination (A+B). The fact that the claim encompasses embodiments which use only subcombination (A) or subcombination (B) is evidence that the subcombinations have utility by themselves.

This example particularly discusses only the combinations (A), (B) and (A+B), but the same analysis could be applied to each of the different subcombinations and combinations set forth in the instant claims.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Each oligonucleotide must be searched by a separate query of the electronic databases. See MPEP 808.02(C). Therefore, a search for 6 or more pairs of different oligonucleotides is not co-extensive with assay systems which use each other combination of 6 or more pairs of different oligonucleotides, and subsequently, the search and examination for every oligonucleotide and every combination of 6 or more pairs of different oligonucleotides poses an enormous and serious burden on the examiner.

Applicant is required to select a single invention, i.e., 6 pairs of different oligonucleotides or a single combination of more than 6 pairs of different oligonucleotides required for the claimed assay system. The invention may be 6 pairs of different oligonucleotides, a combination of more than 6 pairs of different oligonucleotides but less than all of the disclosed oligonucleotides or a combination of all possible claimed oligonucleotides. However, an election of a single invention, i.e., 6 pairs of different oligonucleotides or a single combination of 6 or more pairs of different oligonucleotides is required. This restriction requirement is predicated on the fact that the assay systems comprising 6 pairs of oligonucleotides or different combinations of oligonucleotides do not appear obvious over one another. Should applicant traverse on the ground that the different pairs of oligonucleotides or different combinations of 6 or more pairs of oligonucleotides are not patentably distinct over each other, applicant should submit evident or identify such evidence now of record showing the inventions to be obvious variant over each other or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other inventions.

Applicant is also required to identify which claims read upon the elected invention.

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Since applicants have previously requested examination of SEQ ID NO: 1, the elected combination of primers must include the elected SEQ ID NO: 1. The examiner indicated that a nucleic acid comprising SEQ ID NO: 1 is allowable (see page 19 of the Office action mailed June 25, 2007). Thus, it would follow that a combination comprising SEQ ID NO: 1 would be similarly novel and unobvious.

DECISION

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

The restriction requirement mailed December 21, 2006 and the Office Action mailed on June 25, 2007 have been vacated.

This application is forwarded to the examiner to consider requiring a restriction requirement consistent with this petition decision.

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.

George C. Elliott

George Elliott
Director, Technology Center 1600
jb/jg

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AUG 24 2005

JOHN ZEBALA, PRESIDENT
SYNTRIX BIOCHIP, INC
215 CLAY STREET NW
SUITE B-5
AUBURN W WA 98001

In re Application of	:
Kamen et al.	:
Serial No.: 11/078,614	: PETITION TO MAKE SPECIAL
Filed: March 9, 2005	:
Attorney Docket No.: 7.010	:

This is in response to applicants' petition filed August 8, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to Cancer, based on applicants who are small entities having applications relating to biotechnology, and accelerated examination. The $130.00 petition fee as required by 37 CFR 1.17(h) was received.

Applicants have not satisfied the provisions set forth in M.P.E.P. 708.02, X. Specifically, applicants' claims are not directed to cancer per se. Therefore, the petition is denied under section M.P.E.P. 708.02, X. However, applicants have satisfied the provisions set forth in M.P.E.P. 708.02, XII (A), (B), and (C) and M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). Therefore, the petition is **GRANTED**.

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

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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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SYNTRIX BIOSYSTEMS INC
215 CLAY STREET NW
SUITE B-5
AUBURN W WA 98001

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OFFICE OF PETITIONS

In re Application of	:	
Kamen, et al.	:	
Application No. 11/078,614	:	ON PETITION
Filed: March 9, 2005	:	
Attorney Docket No. 7.010	:	

This is a decision on the petition filed on August 9, 2007, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed on October 24, 2006. This Office action set a shortened statutory period for reply of three months. No proper reply having been received, the application became abandoned on January 25, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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

The matter is being forwarded to Group Art Unit 1614 for consideration of the RCE, filed August 9, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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HUSKY INJECTION MOLDING SYSTEMS, LTD
CO/AMC INTELLECTUAL PROPERTY GRP
500 QUEEN ST. SOUTH
BOLTON ON L7E 5S5 CA CANADA

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DEC 27 2007

OFFICE OF PETITIONS

In re Application of :
Witold Neter, et al. :
Application No. 11/078,629 : ON PETITION
Filed: March 10, 2005 :
Attorney Docket No. H-836-0-US :

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed April 23, 2007. A Notice of Abandonment was mailed on August 28, 2007. In response, on September 7, 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 corrected drawings, (2) the petition fee of $1,500 and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to oversee the review of the drawing filed September 7, 2007.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: RICHARD J. MUSGRAVE
HUSKY INJECTION MOLDING SYSTEMS, LTD
288 NORTH ROAD
MILTON, VT 05468

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

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APR 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark Freeberg et al.	:	
Application No. 11/078,633	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. 022229-000110US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2009.

The request is **APPROVED**.

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

The request was signed by Raymond B. Born on behalf of all attorneys/agents associated with customer number 20350. All attorneys/agents associated with customer number 20350 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the first signing inventor at the first copied address below, since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to the address noted on the request. If this person(s) desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted. Compliance with 37 CFR 3.73(b) has not been met.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mark Freeberg
18709 Fifth Place, SW
Seattle, WA 98166

cc: Ocean and Coastal Environmental
Sensing, Inc.
19655 First Avenue South, Suite 202
Seattle, WA 98148

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/078,633	03/11/2005	Mark Freeberg	022229-000110US

CONFIRMATION NO. 1326

POWER OF ATTORNEY NOTICE

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

OC000000035366925

Date Mailed: 04/07/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2009.

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

/kainabinet/

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

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

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Luke F. Lester et al.	:	
Application No. 11/078,642	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. 0023.0023	:	FROM RECORD
	:	

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 23, 2005.

The request is **APPROVED**.

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

The request was signed by Michael W. Farn 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.

There is an outstanding Office action mailed October 2, 2006 that requires a reply by applicant.

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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: LUKE F. LESTER
8409 MANUAL CIA PLACE NE,
ALBUQUERQUE, NM 87122

cc: SCIENCE & TECHNOLOGY
CORPORATION @ UNM
ATTN: ANREA K. KEMP,
IP COORDINATOR
801 UNIVERSITY BLVD.,
S.E., SUITE 101
ALBUQUERQUE, NM 87106

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/078,642	03/10/2005	Luke F. Lester	0023.0023

CONFIRMATION NO. 7125

OC000000023564542

39878
MH2 TECHNOLOGY LAW GROUP
1951 KIDWELL DRIVE
SUITE 550
TYSONS CORNER, VA 22182

Date Mailed: 04/26/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/23/2005.

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

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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MH2 TECHNOLOGY LAW GROUP, LLP
1951 KIDWELL DRIVE
SUITE 550
TYSONS CORNER, VA 22182

Mail Date: 04/20/2010

Applicant	: Luke F. Lester	: DECISION ON REQUEST FOR
Patent Number	: 7633083	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **671** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MH2 TECHNOLOGY LAW GROUP, LLP
1951 KIDWELL DRIVE
SUITE 550
TYSONS CORNER, VA 22182

Mail Date: 05/17/2010

Applicant : Luke F. Lester
Patent Number : 7633083
Issue Date : 12/15/2009
Application No: 11/078,642
Filed : 03/10/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **698** 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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DETROIT MI 48265-3000

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APR 29 2008

OFFICE OF PETITIONS

In re Application of Alan L. Browne et al Application No. 11/078,644 Filed: March 11, 2005 Attorney Docket No. GP-305445-RD-KAM	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection mailed January 5, 2007, is accepted as having been unintentionally delayed.

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

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 $1,020 extension of time submitted with the petition on August 30, 2007 was subsequent to the maximum period obtainable 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) 272-3208.

This matter is being referred to Technology Center AU 2872 for processing of the Request For Continued Examination submitted August 30, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD, CT 06103

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OFFICE OF PETITIONS

PATENT COPYRIGHT & TRADEMARK LAW GROUP
4199 KINROSS LAKES PARKWAY, SUITE 275
RICHFIELD, OH 44286

In re Application of	:	
Trevor Jackson et al	:	
Application No. 11/078,652	:	ON PETITION
Filed: March 11, 2005	:	
Attorney Docket No. EI-2035	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2008, to revive the above-identified application.

The petition is **DISMISSED.**

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

The 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 19, 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 20, 2007.

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

The petitioner submitted $1155 with petition on January 17, 2008. The Office has applied $405 toward the Request for Continued Examination and $750 toward the petition fee. However,

Effective September 30, 2007, the fee for filing a petition under 37 CFR 1.137(b) changed to $770. Therefore, a balance of $20 is due.

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.

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John D. Gugliotta
Patent, Copyright & Trademark Law Group, LLC
6100 Oak Tree Boulevard, Ste. 200
Independence, OH 44131

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4199 KINROSS LAKES PARKWAY
SUITE 275
RICHFIELD, OH 44286

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OCT 14 2008
OFFICE OF PETITIONS

In re Application of :
Trevor Jackson et al :
Application No. 11/078,652 :
Filed: March 11, 2005 :
Attorney Docket No. EI-2035 :

ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 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) 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 3723 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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GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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MAY 13 2010

OFFICE OF PETITIONS

In re Application :
Robert L. Jones et al. :
Application No. 11/078,655 : DECISION ON APPLICATION
Filed: March 11, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **38820-548001US** :

This is in response to the COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed August 26, 2009. Applicant requests that the determination of patent term adjustment be corrected from 752 days to 1254 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

With respect to the over 3 year calculation, 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.

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED**.

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

On May 29, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants do not state a basis for their disclosure that the Patent Term Adjustment on the Notice of Allowance disagrees with their calculation. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

With respect to the patent term adjustment at the time of the mailing of the notice of allowance, applicants acknowledge the period of adjustment of 132 days for Office delay. However, a review of the record reveals that the initial determination of patent term adjustment of 0 days while correct, the number of days attributable for applicant delay in the amount of 158 days is incorrect.

37 CFR 1.704(c)(8) provides that:

> the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning

[1] PALM records indicate that the issue fee was paid on August 26, 2009.

on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

With the submission of the RCE on May 5, 2009, Applicant filed an Information Disclosure Statement. A Supplemental Information Disclosure Statement was filed on May 21, 2009. In this instance, the filing of the Supplemental Information Disclosure Statement on May 21, 2009 is considered a failure to engage under 1.704(c)(8). The IDS was not expressly requested by the examiner nor did the Supplemental IDS include a 1.704(d) statement.

Pursuant to 37 CFR 1.704(c)(8) a period of reduction of 16 days should have been entered for the Supplemental Information Disclosure Statements (IDS) filed May 21, 2009.

The period of reduction pursuant to 37 CFR 1.704(c)(8) for filing the Supplemental IDS is 16 days, counting the number of days in the period beginning on the day after the initial reply (the RCE) was filed, May 5, 2009 and ending on the date of filing of the last supplemental paper, the IDS filed May 21, 2009. Accordingly, a period of reduction of 16 days is being entered.

In view thereof, the determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is ZERO (0)days (132 days of Office delay reduced by 174 days of applicant delay).

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Revised PALM Screen

Day : Wednesday

PALM INTRANET

Date: 5/12/2010
Time: 13:20:02

PTA Calculations for Application: 11/078655			
Application Filing Date:	03/11/2005	PTO Delay (PTO):	132
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	158
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-16		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
114	05/12/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		16	
89	05/29/2009	MAIL NOTICE OF ALLOWANCE			
88	05/27/2009	ISSUE REVISION COMPLETED			
87	05/27/2009	DOCUMENT VERIFICATION			
86	05/27/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
85	05/26/2009	NOTICE OF ALLOWABILITY			
84	05/05/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
83	05/05/2009	REFERENCE CAPTURE ON IDS			
82	05/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
81	05/18/2009	DATE FORWARDED TO EXAMINER			
80	05/05/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
79	05/18/2009	DISPOSAL FOR A RCE / CPA / R129			
78	05/05/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
77	05/05/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
76	02/13/2009	EXPORT TO INITIAL DATA CAPTURE			
75	02/09/2009	MAIL NOTICE OF ALLOWANCE			
74	02/06/2009	ISSUE REVISION COMPLETED			
73	02/06/2009	DOCUMENT VERIFICATION			
72	02/06/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
71	02/02/2009	NOTICE OF ALLOWABILITY			
70	01/16/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

69	01/16/2009	REFERENCE CAPTURE ON IDS			
68	01/16/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
67	01/26/2009	DATE FORWARDED TO EXAMINER			
66	01/16/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
65	01/26/2009	DISPOSAL FOR A RCE / CPA / R129			
64	01/16/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	01/16/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
62	10/20/2008	EXPORT TO INITIAL DATA CAPTURE			
61	10/16/2008	MAIL NOTICE OF ALLOWANCE			
60	10/10/2008	ISSUE REVISION COMPLETED			
59	10/10/2008	DOCUMENT VERIFICATION			
58	10/10/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
57	10/08/2008	NOTICE OF ALLOWABILITY			
54	07/28/2008	DATE FORWARDED TO EXAMINER			
53	06/25/2008	RESPONSE AFTER NON-FINAL ACTION		31	51
52	06/25/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	02/25/2008	MAIL NON-FINAL REJECTION			
50	02/19/2008	NON-FINAL REJECTION			
43	01/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	01/11/2008	REFERENCE CAPTURE ON IDS			
41	01/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	02/15/2008	DATE FORWARDED TO EXAMINER			
39	01/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	02/15/2008	DISPOSAL FOR A RCE / CPA / R129			
37	02/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
36	01/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	01/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	01/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	12/12/2007	FINISHED INITIAL DATA CAPTURE			
32	10/16/2007	EXPORT TO INITIAL DATA CAPTURE			

31	10/11/2007	MAIL NOTICE OF ALLOWANCE			
30	10/09/2007	ISSUE REVISION COMPLETED			
28	10/03/2007	DOCUMENT VERIFICATION			
27	10/03/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
26	10/01/2007	NOTICE OF ALLOWABILITY			
25	09/13/2007	DATE FORWARDED TO EXAMINER			
24	09/10/2007	AMENDMENT AFTER FINAL REJECTION		32	22
23	09/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	05/09/2007	MAIL FINAL REJECTION (PTOL - 326)			
21	03/21/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	04/30/2007	FINAL REJECTION			
18	03/21/2007	REFERENCE CAPTURE ON IDS			
17.7	03/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		29	15
17	03/21/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/23/2007	DATE FORWARDED TO EXAMINER			
15	02/20/2007	RESPONSE AFTER NON-FINAL ACTION		62	13
14	02/20/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
13	09/20/2006	MAIL NON-FINAL REJECTION	132		-1
12	09/18/2006	NON-FINAL REJECTION			
11	09/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	09/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	07/27/2005	APPLICATION DISPATCHED FROM OIPE			
8	07/27/2005	APPLICATION IS NOW COMPLETE			
7	07/15/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM		4	4
6	07/15/2005	SMALL ENTITY STATEMENT (37 CFR 1.27)			
5	07/15/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	04/11/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/06/2005	CLEARED BY OIPE CSR			
2	03/27/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	03/11/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 500
1200 - 19TH STREET, NW
WASHINGTON, DC 20036-2402

In re Application of	:	
HARTMAN, Mark et al.	:	
Application No. 11/078,656	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. **OUTT-011/03US**	:	FROM RECORD
	:	

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 10, 2007 and April 13, 2007.

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

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the assignee of the patent application on April 05, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **NEUGEBOREN LAW FIRM PC**
1035 PEARL STREET
SUITE 400
BOULDER CO 80302

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/078,659	03/10/2005	2852	1130	88518.0044	10	8	2

CONFIRMATION NO. 7138

UPDATED FILING RECEIPT

OC000000016149433

000026021
HOGAN & HARTSON L.L.P.
500 S. GRAND AVENUE
SUITE 1900
LOS ANGELES, CA 90071-2611

Date Mailed: 05/31/2005

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

Applicant(s)

Yoichi Yamada, Nagano-ken, JAPAN;
Ken Ikuma, Nagano-ken, JAPAN;

Assignment For Published Patent Application

SEIKO EPSON CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number **26021**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN P2004-067238 03/10/2005
JAPAN P2004-067239 03/10/2005
JAPAN P2005-063569 03/08/2005
JAPAN P2005-063570 03/08/2005

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/078,659

Projected Publication Date: 09/14/2006

Non-Publication Request: No

Early Publication Request: No

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Title

Image forming apparatus

Preliminary Class

399

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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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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Applicant: Rosen et al.
Appl. No.: 11/078,663
Filing Date: March 14, 2005
Title: ALBUMIN FUSION PROTEINS
Attorney Docket No.: 6832.0015-01
Pub. No.: US 2005/0266532 A1
Pub. Date: December 1, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on January 31, 2006, for the above-identified application.

The request is granted.

The paper copy of the sequence listing, which was improperly scanned into this application and published has been removed from the application.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ADAM IMMANUEL ORRE
MISTELVAGEN 5
18435 AKERSBERGA SE SWEDEN

COPY MAILED

MAY 13 2009

OFFICE OF PETITIONS

In re Application of :
ADAM IMMANUEL ORRE :
Application No. 11/078,671 :
Filed: March 10, 2005 :
Attorney Docket No. :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 10, 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 November 9, 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 August 20, 2009, accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-4914.

This application is being referred to Technology Center Art Unit 3685 for consideration of the amendment filed concurrently with the instant petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/078,671	03/10/2005	Adam Immanuel Orre	

CONFIRMATION NO. 9277

NONPUBLICATION RESCISSION LETTER

AIR MAIL
ADAM IMMANUEL ORRE
MISTELVAGEN 5
18435 AKERSBERGA,
SWEDEN

OC000000035923473

Date Mailed: 05/12/2009

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 08/20/2009.

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".

/rkrishnamurthy/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jul-05

JEFFREY M. GREENMAN
BAYER PHARMACEUTICALS CORPORATION
400 MORGAN LANE
WEST HAVEN CT 06516

COPY MAILED

JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Dixon et al.	:	
Application No. 11/078,681	:	ON PETITION
Filed: 10 March, 2005	:	
Atty Docket No. 5178-P1	:	

This is a decision on the petition filed on 9 June, 2005, requesting that the above-identified application be accorded a filing date of 10 March, 2005, with Page 245 of the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 10 March, 2005.

Accordingly, on 17 May, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of 10 March, 2005, but that Page 245 of the specification (description and claims) appeared to have been omitted.

In response, on 9 June, 2005, the present petition and a copy of, *inter alia*, Page 245 of the specification were filed. Petitioners argue that Page 245 was filed with the other application papers on 10 March, 2005, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of 10 March, 2005 containing the above-identified application number, and identifies the application by the first named inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 247 pages

of description and 29 pages of claims. Petitioners requests that the application, including Page 245 of the specification, be accorded a filing date of 10 March, 2005.

A review of the record reveals that no Page 245 of the specification has been located among the 246 pages of written description and 29 pages of claims deposited with the application papers received on 10 March, 2005. However, the evidence is convincing that the application papers deposited on 10 March, 2005, included 247 pages of written description, Page 245 of which was subsequently misplaced in the Office. Therefore, the application, including Page 245 of the specification, is entitled to a filing date of 10 March, 2005.

The "Notice" mailed on 17 May, 2005, is vacated to the extent that it stated that Page 245 of the specification appeared to have been omitted.

In view of the above, the petition is granted. The $400.00 in petition fee paid with the present petition is unnecessary and will be refunded to counsel's deposit account, No. 13-3372.

The application will be processed with the copy of Page 245 supplied on 9 June, 2005, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 10 March, 2005, using the application papers filed on that date, and the copy of Page 245 supplied with the present petition.

Telephone inquires should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BARBARA A. SHIMEI
DIRECTOR, PATENTS & LICENSING
BAYER HEALTHCARE LLC – PHARMACEUTICALS
555 WHITE PLAINS ROAD, THIRD FLOOR
TARRYTOWN NY 10591

MAILED

AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Julie A. Dixon et al	:	
Application No. 11/078,681	:	DECISION GRANTING PETITION
Filed: March 10, 2005	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 5178-P1	:	

This is a decision on the petition under 37 CFR 1.313(c)(1), filed August 28, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

The petition complies with the requirements of 37 CFR 1.313(c)(1). Accordingly, the above-identified application is withdrawn from issue.

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

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

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

The application is being referred to Technology Center AU 1624 for consideration of the amendment submitted with the petition.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

cc:

EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON, MASSACHUSETTS 02205

---

[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.*

17

O I P E IC65
APR 1 5 2005
PATENT & TRADEMARK OFFICE

Attorney Docket No. 357668001US2

EXPRESS MAIL NO. EV723060465US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: DAVID ROTH ET AL.	EXAMINER: NOT YET ASSIGNED
APPLICATION NO.: 11/078,686	ART UNIT: 1761
FILED: March 11, 2005	CONF. NO: 5689
FOR: **METHODS AND SYSTEMS FOR PROVIDING FOOD, BEVERAGES, AND ASSOCIATED GOODS AND SERVICES IN A RETAIL ENVIRONMENT**	

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

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

Sir:

Applicants petition to make special the above-identified application because of actual infringement. The specific facts relied upon in making this petition are provided in the accompanying declaration.

A check for $130.00 covering the fee specified under 37 C.F.R. 1.17(h) is enclosed. Please charge any underpayment or credit any over payment to Deposit Account No. 50-0665. This petition is being filed in triplicate.

04/19/2005 HTECKLU1 00000084 11078686
01 FC:1464 130.00 OP

Respectfully submitted,
Perkins Coie LLP

Date: April 15, 2005

Stephen E. Arnett
Registration No. 47,392

Correspondence Address:
Customer No. 25096
Perkins Coie LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8000

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700

MAY 2 3 2005

Q:\Clients\Cereality Operators, Inc. (35766)\8001\8001US2\Petition to make special.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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PFIZER INC
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK, NY 10017-5612

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APR 17 2006
OFFICE OF PETITIONS

In re Application of :
Michael A. Brodney, et al. :
Application No. 11/078,739 : ON PETITION
Filed: March 11, 2005 :
Attorney Docket No.: PC32080A :

This is a decision on the petition, filed April 11, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

The application is being referred to Technology Center AU 1621 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JEFFREY W. SALMON, ESQ.
WELSH & KATZ, LTD.
120 S. RIVERSIDE PLAZA, 22ND FLOOR
CHICAGO, IL 60606

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DEC 20 2006

OFFICE OF PETITIONS

In re Application of	:
Michael Tasler	:
Application No. 11/078,778	: DECISION GRANTING PETITION
Filed: March 11, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9576/96910	:

This is a decision on the petition, filed December 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 July 31, 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 2181 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\Dec10\078778.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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 1 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Black et al.	:
Application No. 11/078,788	:
Filed: March 11, 2005	:
Attorney Docket No. 02-004C2 (ANSI01-00113)	:

This is a decision on the petition under 37 CFR §1.102(d), filed March 14, 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 3762 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 29 2006

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

In re Application of :

Frederick J. Burkhardt et al :
Application No. 11/078,791 :
Filed: March 10, 2005 :
Attorney Docket No. 342312001903 :

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 28, 2005.

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

A review of the file record indicates that the power of attorney to Thomas E. Ciotti, along with all of the other attorneys associated with Customer No. **25226** has been revoked by the assignee of the patent application on January 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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 1614 to await a reply to the Non-final Office action mailed on March 24, 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

Conferee:

cc:
AGOURON
PHARMACEUTICALS, INC.
10777 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PFIZER INC
Steve T. Zelson
150 EAST 42ND STREET
5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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FEB 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Frederick Burkhardt et al.	:	
Application No. 11/078,791	:	DECISION ON PETITION
Filed: March 10, 2005	:	
Attorney Docket No. PC19319C	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed November 11, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed January 23, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 2, 2008.

Petitioner asserts that the Office action dated January 23, 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 and docketed must be attached to and referenced in the practitioner's statement.

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

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

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

This application is being referred to the Technology Center technical support staff of Art Unit 1612 for re-mailing the Office action of January 23, 2008. The period for reply will run from the mailing date of the Office action.

Christopher Bottorff
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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INVENTARIUM
suite 1607
4050 Rosemont blvd
Montreal QC H1X 1M4 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Paul Valiquette	:	
Application No. 11/078,797	:	
Filing or 371(c) Date: 03/11/2005	:	ON PETITION
Title of Invention: WADING POOL	:	
RETROFITTABLE TO A MAIN POOL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 8, 2005. 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 March 9, 2005. A Notice of Abandonment was mailed June 14, 2006.

The instant petition

Applicant files the instant petition and as a reply alleges that a Continuation-in=Part (CIP) application was filed; however, office records do not indicate that a continuing application of the above-identified application has been filed. Accordingly, the petition is not grantable at this time.

The petition is dimissed without prejudice, Applicant may file a request for reconsideration of petition and include the necessary information (Application No., filing date) of the CIP application.

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

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

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

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

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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DEC 15 2006

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

on 12/15/2006.
Date

Signature

DANIEL PAQUETTE

Typed or printed name of person signing Certificate

Registration Number, if applicable

514-376-1273
Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

- **This certificate of transmission**
- **Our fax coversheet**
- **Request for consideration of petition under 37 CFR 1.137(b) for 11/078,797 Paul Valiquette**
- **Receipt of regular Patent Application**
- **Copy of decision on the petition received from USPTO**
- **Copy of Certify copy received from USPTO (3 pages)**

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

BEST AVAILABLE COPY

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INVENTARIUM
4050, Rosemont boul., suite 1607
Montreal, Qc, H1X 1M4
Phone.: (514) 376-1273,
Fax.: (514) 376-8611
E-mail: communication@inventarium.com
Website: www.inventarium.com

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DEC 15 2006

FAX COVERSHEET

Date 12 / 15 / 2006

Number of pages including this one: 8

Company or organization name of the recipient: **USPTO**

Name of the recipient: OFFICE OF PETITIONS

Fax number of the recipient: **(571) 273-8300**

Name of sender: **DANIEL PAQUETTE**

Fax number of the sender: **(514) 376-8611**

Object: Request for reconsideration of Petition under 37 CFR 1.137(b) for application # 11/078,797, PAUL VALIQUETTE

BEST AVAILABLE COPY

BEST AVAILABLE COPY

IN THE US PATENT AND TM OFFICE

Serial Number: 11/078,797

Filing Date: 03/11/2005

Applicant: Paul Valiquette

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December 15, 2006

Montreal, QUE, Canada

Request for reconsideration of Petition under 37 CFR 1.137(b)

Enclosed, please find a copy of the USPTO communication we received concerning the filing of the Continuation in Part application which was filed as a reply to reinstate the above identified abandoned application. The enclosed copy of the USPTO communication should be proof that a CIP filing was made, therefore the petition should be granted and the application reinstated.

Very Respectfully,

Applicant pro se

PAGE 3/8 * RCVD AT 12/15/2006 1:53:15 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/21 * DNIS:2738300 * CSID:5143768611 * DURATION (mm-ss):03-30

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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
11/499,234	08/03/2006	3751	500		4	5	1

CONFIRMATION NO. 2221

FILING RECEIPT

OC000000020131048

INVENTARIUM
Suite 1607
4050 Rosemont blvd
Montreal, QC H1X 1M4
CANADA

Date Mailed: 08/22/2006

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)

Paul Valiquette, Mirabel, CANADA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications
If Required, Foreign Filing License Granted: 08/21/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/499,234

Projected Publication Date: 02/07/2008

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Wading pool retrofittable to a main pool

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INVENTARIUM
suite 1607
4050 Rosemont blvd
Montreal QC H1X 1M4 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Paul Valiquette	:	
Application No. 11/078,797	:	
Filing or 371(c) Date: 03/11/2005	:	ON PETITION
Title of Invention: WADING POOL	:	
RETROFITTABLE TO A MAIN POOL	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed December 8, 2005. 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 March 9, 2005. A Notice of Abandonment was mailed June 14, 2006.

The instant petition

Applicant files the instant petition and as a reply alleges that a Continuation-in=Part (CIP) application was filed; however, office records do not indicate that a continuing application of the above-identified application has been filed. Accordingly, the petition is not grantable at this time.

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PA 1553823

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

December 14, 2006

THIS IS TO CERTIFY THAT ANNEXED HERETO IS A TRUE COPY FROM THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE OF THOSE PAPERS OF THE BELOW IDENTIFIED PATENT APPLICATION THAT MET THE REQUIREMENTS TO BE GRANTED A FILING DATE UNDER 35 USC 111.

APPLICATION NUMBER: *11/499,234*
FILING DATE: *August 03, 2006*

THE COUNTRY CODE AND NUMBER OF YOUR PRIORITY APPLICATION, TO BE USED FOR FILING ABROAD UNDER THE PARIS CONVENTION, IS *US11/499,234*

By Authority of the
Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

T. Lawrence

T. LAWRENCE
Certifying Officer

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080306 1427 U.S. PTO

PTO/SB/05 (08-03)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office. U.S. DEPARTMENT OF COMMERCE
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113260 U.S. PTO 11/499234 080306

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	
First Inventor	
Title	
Express Mail Label No.	

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APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

1. [x] Fee Transmittal Form (e.g., PTO/SB/17)
   (Submit an original and a duplicate for fee processing)
2. [x] Applicant claims small entity status. See 37 CFR 1.27.
3. [x] Specification [Total Pages 18]
   (preferred arrangement set forth below)
   - Descriptive title of the Invention
   - Cross Reference to Related Applications
   - Statement Regarding Fed sponsored R & D
   - Reference to sequence listing, a table, or a computer program listing appendix
   - Background of the Invention
   - Brief Summary of the Invention
   - Brief Description of the Drawings (if filed)
   - Detailed Description
   - Claim(s)
   - Abstract of the Disclosure
4. [x] Drawing(s) (35 U.S.C. 113) [Total Sheets 4]
5. Oath or Declaration [Total Sheets 2]
   a. [x] Newly executed (original or copy)
   b. [ ] Copy from a prior application (37 CFR 1.63(d))
      (for continuation/divisional with Box 18 completed)
      i. [ ] DELETION OF INVENTOR(S)
      Signed statement attached deleting inventor(s) name in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. [ ] Application Data Sheet. See 37 CFR 1.76
7. [ ] CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
   (if applicable, all necessary)
   a. [ ] Computer Readable Form (CRF)
   b. Specification Sequence Listing on:
      i. [ ] CD-ROM or CD-R (2 copies); or
      ii. [ ] Paper
   c. [ ] Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. [ ] Assignment Papers (cover sheet & document(s))
10. [ ] 37 CFR 3.73(b) Statement (when there is an assignee) [ ] Power of Attorney
11. [ ] English Translation Document (if applicable)
12. [x] Information Disclosure Statement (IDS)/PTO-1449 [ ] Copies of IDS Citations
13. [ ] Preliminary Amendment
14. [x] Return Receipt Postcard (MPEP 503)
    (Should be specifically itemized)
15. [ ] Certified Copy of Priority Document(s)
    (if foreign priority is claimed)
16. [ ] Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. [ ] Other: .....

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

[ ] Continuation [ ] Divisional [ ] Continuation-in-part (CIP) of prior application No.: .....

Prior application information: Examiner _____ Art Unit: _____

For CONTINUATION OF DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

[ ] Customer Number: _____ OR [x] Correspondence address below

Name	INVENTARIUM				
Address	4050 Rosemont blvd				
	suite 1607				
City	Montreal	State	QC	Zip Code	H1X 1M4
Country	CANADA	Telephone	(514) 376-1273	Fax	(514)376-0811

Name (Print/Type)		Registration No. (Attorney/Agent)	
Signature		Date	

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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This application is a continuation in part of application 20050198728 published sept 15, 2005

WADING POOL RETROFITTABLE TO A MAIN POOL

FIELD OF THE INVENTION

The present invention relates to wading pools. More specifically, to a wading pool retrofittable onto a main pool.

BACKGROUND OF THE INVENTION

Wading or accessory pools for in-ground or above-ground main pools are known in the art. However, wading or accessory pools are usually integrally built with the main pool. Therefore, if there is an existing main pool, it is often very hard or impossible to add an accessory or wading pool to the main pool. Furthermore, when the wading pool is fitted to the main pool, it is often impossible to disassemble the wading pool for moving or maintenance thereof.

In addition, accessory pools for residential use are typically relatively deep and are mainly used as hot tubs or jacuzzis. While helping a user to relax, hot tubs do not allow tanning as the user is covered in water. Also, hot tubs require that young children in the hot tub be under constant adult supervision.

Against this background there exists a need in the industry to provide a

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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA CA 92626

In re Application of	:	
Dennis CHANCELLOR	:	
Application No. 11/078,819	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. 100349.0062US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 30, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd W. Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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

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SAWYER LAW GROUP LLP
P O BOX 51418
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of :
Rosti, et al. :
Application No. 11/078,859 : ON PETITION
Filed: March 10, 2005 :
Attorney Docket No. 3096P :

This is a decision on the petition filed under 37 CFR 1.10(d) to accord the application a filing date of March 10, 2005.

The petition is **granted**.

The record reflects that the subject application arrived at the Patent and Trademark Office in an Express Mail envelope with Express Mail label EV6292169271US showing a date-in of March 12, 2005. Petitioner filed the instant petition on August 19, 2005, asserting that the application should have been accorded a filing date of March 10, 2005, as that was date the application was deposited with the Express Mail service.

Title 37, Section 1.10(d) of the Code of Federal Regulations reads, in pertinent part:

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

All of the above requirements have been met. The application will, therefore, be accorded a filing date of March 10, 2005.

The fee of $130.00 remitted will be refunded, in due course.

The application file is being forwarded to the Office of Initial Patent Examination where the application will be accorded a filing date of March 10, 2005, and a corrected filing receipt mailed. The Office of Initial Patent Examination will also attend to applicant's request for correction of the priority data associated with this application.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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BRIDGESTONE AMERICAS, INC.
1200 FIRESTONE PARKWAY
AKRON, OH 44317

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JUN 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Weizheng W. Wang, et al.	:	
Application No. 11/078,865	:	DECISION GRANTING PETITION
Filed: March 10, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 03-1059	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 24, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

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P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Weizheng W. Wang	: DECISION ON REQUEST FOR
Patent Number	: 7599659	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/078,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1140** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHARMASSON BUCHACA & LEACH, LLP
1545 HOTEL CIRCLES SOUTH, SUITE 150
SAN DIEGO, CA 92108-3426

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OFFICE OF PETITIONS

In re Application of	:	
Naishu Wang et al	:	
Application No. 11/078,876	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 050001	:	37 C.F.R. § 1.102(d)
	:	

This is a decision on the petition under 37 CFR 1.102(d), filed on March 10, 2005 to make the above-identified application special based on developing treatments and cures for HIV/AIDS or cancer as set forth in M.P.E.P. § 708.02, Section X.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d) and MPEP § 708.02, Section X: Inventions Relating to HIV/AIDS or cancer, must be accompanied by (1) the petition fee under 37 CFR 1.17(h); and (2) a satisfactory statement explaining how the invention contributes to the diagnosis, treatment or prevention of HIV/AIDS or cancer.

The instant petition includes a statement explaining how the invention provides a better mechanism for collecting, preserving, mailing, transporting and testing samples used in fecal occult blood testing. 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 1743 for action on the merits commensurate with this decision.

David Buccii
Petitions Examiner
Office of Petitions

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745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

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OFFICE OF PETITIONS

In re Application of	:	
Yoshikawa et al.	:	DECISION ON PETITION TO
Application Number: 11/078892	:	WITHDRAW HOLDING OF
Filing Date: 03/11/2005	:	ABANDONMENT
Attorney Docket Number: 450104-04127.1	:	

This is a decision on the petition to withdraw the holding of abandonment, filed on April 25, 2007.

The petition is **GRANTED**.

The application was held abandoned for failure to respond to the final Office action mailed on August 28, 2006, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on April 16, 2007.

Petitioners assert that the terminal disclaimer and supplemental amendment filed on August 18, 2006, overcome the double patenting rejection made in the non-final Office action mailed on March 17, 2006, but were not considered in the final rejection mailed on August 28, 2006.

Further, petitioner asserts that the terminal disclaimer filed on August 18, 2006, was improperly disapproved, because the reel and frame number of the assignment and the name assignee were in fact listed in the terminal disclaimer.

MPEP 714.03 states that the Office may enter a supplemental reply if the supplemental reply is clearly limited to (A) cancellation of a claim; (B) adoption of the examiner's suggestions; (C) placement of the application in condition of allowance; (D) reply to an Office requirement made after the first reply was filed; (E) correction of informalities (e.g., typographical errors); or (F) simplification of issues for appeal.

Petitioners assert that the supplemental reply places the application in condition for allowance. Upon review, the examiner has concluded that petitioners' argument has merit. Therefore, the petition may be favorably considered.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2873 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 070808

DATE : 07-02-08

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/078898** Patent No.: **7342118**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1626
Art Unit 7/8/08

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REED SMITH LLP
435 SIXTH AVENUE
PITTSBURGH PA 15219-1886

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OFFICE OF PETITIONS

In re Application of
Dennis Stover et al.
Application No. 11/078,903
Filed: March 11, 2005
Attorney Docket No. 04-209-US

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

This is in response to the petition filed November 7, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on March 11, 2005, naming Dennis Stover, Elijah Adams, Katherine Klug, Ken Kubala and Darren Baer as joint inventors but without a signed declaration. Accordingly, on April 6, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed by all inventors except joint inventor Stover, a petition under 37 CFR 1.47(a) and a request for a five month extension of time was filed. The petition argues that joint inventor Stover refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were sent to Mr. Stover and that he has verbally refused, in a telephone conversation with the Attorney of Record, to execute the oath or declaration and thus, to cooperate with the filing of the instant application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

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

Please be advised that the fees remitted with the instant petition did not include a fee for the petition under 37 CFR 1.47(a). However, pursuant to the authorization to charge petitioner's deposit account, deposit account no. 18-0582 has been charged in the amount of $200.00, pursuant to 37 CFR 1.17(g).

Finally, the change of correspondence address to that of the customer number must be contained in a separate paper. A courtesy copy of this decision is being sent to that address associated with customer number 00718 but the address of record cannot be changed until such time as a proper change of address has been submitted.

This matter is being referred to Technology Center 3624 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

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OFFICE OF PETITIONS

DENNIS STOVER
322 ROCKFIELD ROAD
PITTSBURGH, PA 15243

In re Application of
Dennis Stover et al.
Application No. 11/078,903
Filed: March 11, 2005
For: INTEGRATED HEALTH SAVINGS ACCOUNT METHODS AND SYSTEMS

Dear Mr. Stover:

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

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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REED SMITH, LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

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JAN 28 2010

In re Application of
Dennis Stover, et. al.
Application No. 11/078,903
Filed: March 11, 2005
Attorney Docket No. 04-209-US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2009, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed on March 4, 2009. A Notice of Abandonment was mailed on September 28, 2009.

It is noted that the instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Robert S. Stoll 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, 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**.

Additionally, while the assignee attempted to intervene in the above-identified application, The Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address filed on November 10, 2009 does not comply with 37 CFR 3.73(b), in that the required Statement under 37 CFR 3.73(b) has not been provided.

Therefore, in order for the Power of Attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

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.

This application file is being referred to Technology Center Art Unit 3695 for consideration of the petition under 37 CFR 1.103 filed on November 10, 2009.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Robert S. Stoll
Stoll, Stoll & Hoffman
1350 Broadway – Suite 802
New York, NY 10018

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John Russell Uren, P. Eng.
Suite 202
1590 Bellevue Avenue
West Vancouver BC V7V 1A7 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Howard Leigh Malm	:	
Application No. 11/078,905	:	DECISION ON PETITION
Filed: March 9, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. REM10001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 23, 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 statement from the applicant 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 3743 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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P.O. Box 1450
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Janice A. Vatland, Ph.D.
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210

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AUG 1 0 2007

OFFICE OF PETITIONS

Applicant: Prabhakar et al.
Appl. No.: 11/078,915
Filing Date: March 10, 2005
Title: RECOMBINANT CHONDROITINASE ABC I AND USES THEREOF
Attorney Docket No.: M0656.70105US03
Pub. No.: US 2006/0078959 A1
Pub. Date: April 13, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on May 30, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on page 110, dependent claim 80 (line 4) because "of" was improperly omitted from the phrase "ABC I of claim 1" and on page 110, claim 95 (first sentence) because "glycosaminoglycan" was improperly spelled as "glycosaminoglycean".

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 in omitting "of" from claim 80 and misspelling of "glycosaminoglyan" in claim 95 of the publication are Office errors, but they are not material Office errors under 37 CFR 1.221. The errors are not a material Office errors because the error do not affect the understanding of the publication. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

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

application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

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

Mark 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
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SEP 15 2006
OFFICE OF PETITIONS

John Lagowski
10521 W. St. Francis Ave.
Greenfield, WI 53228

In re Application of	:	
Dimce Vasilev	:	
Application No. 11/078,954	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2006.

The request is **APPROVED**.

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

The request was signed by John Lagowski, the sole attorney of record.

John Lagowski has been withdrawn as attorney and/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 Dimce Vasilev at the address indicated below.

There is no outstanding Office action at this time.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Dimce Vasilev**
415 W. Belden
Unit K
Addison, IL 60101

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

6/19/09

Patent No. :7398827
Inventor(s) :Kulakofsky et al.
Issued :7/15/2008
Title : METHODS FOR HIGH TEMPERATURE LIGHTWEIGHT CEMENTING
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 1 col. 11 line 52 & claim 14 col. 14 line 6 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

HAYNES AND BOONE, LLP
IP SECTION
2323 Victory Avenue, Suite 700
Dallas, Txas 75219

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/078,982	03/11/2005	Hengsheng Feng	APH-0093

CONFIRMATION NO.
2352

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

Date Mailed: September 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/078,982	03/11/2005	Hengsheng Feng	APH-0093

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

DATE MAILED: September 13, 2006

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

This is in response to the petition under 37 CFR 1.138(d) filed on September 7, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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24507
Michael B. Brooks
P.O. Box 1630
Simi Valley, CA 93062-1630

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JUL 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Kevin P. Hickerson	:	
Application No. 11/078,984	:	DECISION ON PETITION
Filed: March 11, 2005	:	TO WITHDRAW
Attorney Docket No. 500.000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2005.

The request is **APPROVED**.

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

The request was signed by Michael B. Brooks on behalf of all attorneys of record who are associated with customer No. 24507.

All the attorneys/agents associated with the Customer Number 24507 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7009.

David Bucci
Petitions Examiner
Office of Petitions

cc: Kevin P. Hickerson
3336 Raymond Avenue
Altadena, CA 91001

cc: Andrew S. Naglestad
130 W. Union Street
Pasadena, CA 91103

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RUTAN & TUCKER, LLP
611 ANTON BLVD., SUITE 1400
COSTA MESA CA 92626

In re Application of	:	
Dennis CHANCELLOR	:	
Application No. 11/078,989	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. 100349.0061US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 30, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Todd W. Wight does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE, SUITE 200
EAST PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
KIM, Daniel H.	:	
Application No. 11/079,006	:	DECISION ON PETITION
Filed: March 10, 2005	:	TO WITHDRAW
Attorney Docket No. **STAN-388CIP3**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 2007.

The request is **APPROVED**.

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DANIEL H. KIM**
156 PACCHETTI WAY
MOUNTAIN WAY, CA 94040

cc: **MAYER & WILLIAMS PC**
251 NOTRTH AVENUE WEST, 2ND FLOOR
WESTFIELD, NJ 07090

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VERTIFLEX, INC.
PERKINS COIE LLP
P.O. BOX 1247
SEATTLE, WA 98111-1247

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OFFICE OF PETITIONS

In re Application of	:	
Daniel H. Kim	:	DECISION ON PETITION
Application No. 11/079,006	:	TO WITHDRAW
Filed: March 10, 2005	:	FROM RECORD
Attorney Docket No. 65837-8002US3	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

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

A review of the file record indicates that Vertiflex, Inc. was revoked as power of attorney by the assignee of the patent application on January 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
New York NY 10008-0770

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OFFICE OF PETITIONS

In re Application of	:	
Scott Andrew Snyder	:	
Application Number: 11/079011	:	DECISION ON PETITION
Filing Date: 03/09/2005	:	
Attorney Docket Number:	:	
08202/1200001-US3	:	

This is a decision on the petition filed on 6 September, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

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

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

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

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

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

The application became abandoned on 14 March, 2007, for failure to timely reply to the non-final Office action mailed on 13 December, 2006, which set a three (3)-month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 July, 2007. Petitioners have filed an amendment as the required reply.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three-month extension request filed on 6 September, 2007, was submitted more than three (3) months after the end of the period for reply to the non-final Office action mailed on 13 December, 2006, and therefore is unnecessary. The extension of time fee paid on 6 September, 2007, will be credited to counsel's deposit account as authorized.

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.[3] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address listed in the petition. All future correspondence, however, will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 3625 for further processing.

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

[3] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: GARY MORRIS
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO CA 94111

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

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OFFICE OF PETITIONS

In re Application of	:	
Stephen K. **ECKHARDT, et al.**	:	
Application No. 11/079,023	:	DECISION GRANTING PETITION
Filed: March 9, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **59003US004**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

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MAR 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Stephen K. ECKHARDT, et *al.*	:	
Application No. 11/079,023	:	DECISION GRANTING PETITION
Filed: March 9, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **59003US004**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 23, 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]

There is no indication that the petition is signed by a patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Anna M. Nelson appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts. If, Ms. Nelson 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 Ms. Nelson, 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.

---

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

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

This application 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.

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

cc: **ANNA M. NELSON, PH.D**
CAMPBELL NELSON WHIPPS, LLC
408 ST PETER STREET, SUITE 240
ST PAUL, MN 55102

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 29 2007

OFFICE OF PETITIONS

LELAND K. JORDAN
1235 THUNDER HILL ROAD
LINCOLN UNIVERSITY PA 19352

In re Application of	:	
Robert PINGREE, et al	:	
Application No. 11/079,030	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. L:KJ-05-6	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 7, 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 Leland K. Jordan the sole attorney of record. Leland K. Jordan has been withdrawn as attorney of record.

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

All future communications from the Office will be directed to the first signing inventor at the first copied address below until otherwise properly notified by the applicant.

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

There is an outstanding Office action mailed May 17, 2007 that requires a reply by the applicant.

April Wise
Petitions Examiner
Office of Petitions

cc: ROBERT PINGREE
10869 N. SCOTTSDALE ROAD
#103-135
SCOTTSDALE, AZ 85254

cc: FRANK BENINSIG
HOT PEPPER VENTURES
13389 FOLSOM BLVD., STE. 300
FOLSOM , CA 95630

cc: JORDAN
548 HODGSON CIR
WEST GROVE PA 19390-1372

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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
11/079,030	03/14/2005	Robert Pingree	L:KJ-05-6

CONFIRMATION NO. 3256

OC000000024027813

LELAND K. JORDAN
1235 THUNDER HILL ROAD
LINCOLN UNIVERSITY, PA 19352

Date Mailed: 05/24/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/07/2006.

- 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.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/21/2010

Applicant	: Thomas E. Geyer	: DECISION ON REQUEST FOR
Patent Number	: 7530740	: RECALCULATION of PATENT
Issue Date	: 05/12/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,033	: OF WYETH
Filed	: 03/14/2005	:
		:

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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DLA PIPER RUDNICK GRAY CARY US LLP
P.O. Box 64807
Chicago IL 60664-0807

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OFFICE OF PETITIONS

In re Application of	:	
Frederick J. Michelau	:	DECISION ON PETITION TO
Application Number: 11/079056	:	WITHDRAW HOLDING OF
Filing Date: 03/14/2005	:	ABANDONMENT
Attorney Docket Number: P6698	:	
	:	

This is a decision on the petition filed on July 8, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on January 12, 2009, which set a three (3)-month statutory period for reply. No reply having been received, Notice of Abandonment was mailed on May 8, 2009.

Petitioners aver that a reply was timely filed by facsimile on April 8, 2009. In support, petitioners have submitted a copy of the reply (PTOL-85B Fee(s) Transmittal) allegedly timely filed. The reply contains a certificate of facsimile transmission dated April 8, 2009, signed by Kathryn Walczak. Petitioner's counsel states that Ms. Walczak is no longer employed by petitioner's counsel, and has not provided a statement by her, but has supplied a copy of the sending unit's facsimile transmission report, showing that the PTOL-85B was transmitted by facsimile to the fax number indicated thereon on April 8, 2009.

37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement that attests on a personal knowledge basis **or to the satisfaction of the Director to the previous timely mailing, transmission or submission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.** If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.
>
> (emphasis added)

In view of the evidence provided (*e.g.*, the certificate of mailing and the sending unit's facsimile transmission report), the showing of record is that the reply was timely filed.

The holding of abandonment is **withdrawn**, and the notice of abandonment is **vacated**.

It is noted that the copy of the PTOL-85B submitted with the petition specifically authorizes payment of the issue fee, but not the publication fee. Nevertheless, because the block is checked authorizing the Director to "charge the required fee(s)" to counsel's deposit account, payment of the publication fee is also considered to be timely filed.

The issue and publication fee(s) will be charged to counsel's deposit account.

The application is being referred to the Office of Data Management for processing into a patent.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DLA PIPER RUDNICK GRAY CARY US LLP
P.O. Box 64807
Chicago IL 60664-0807

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OFFICE OF PETITIONS

In re Application of	:	CORRECTED
Frederick J. Michelau	:	DECISION ON PETITION TO
Application Number: 11/079056	:	WITHDRAW HOLDING OF
Filing Date: 03/14/2005	:	ABANDONMENT
Attorney Docket Number: P6698	:	
	:	

This is a corrected decision on the petition filed on July 8, 2009, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on January 12, 2009, which set a three (3)-month statutory period for reply. No reply having been received, Notice of Abandonment was mailed on May 8, 2009.

Petitioners aver that a reply was timely filed by facsimile on April 8, 2009. In support, petitioners have submitted a copy of the reply (PTOL-85B Fee(s) Transmittal) allegedly timely filed. The reply contains a certificate of facsimile transmission dated April 8, 2009, signed by Kathryn Walczak. Petitioner's counsel states that Ms. Walczak is no longer employed by petitioner's counsel, and has not provided a statement by her, but has supplied a copy of the sending unit's facsimile transmission report, showing that the PTOL-85B was transmitted by facsimile to the fax number indicated thereon on April 8, 2009.

Upon further review, the deposit account information provided by petitioners on the PTOL-85(b) Fee Transmittal form is incorrect. Specifically, the deposit account number provided on thereon, "18-2285" is not associated with the registered patent practitioner who signed the PTOL-85(b). A review of Office financial records indicates that the Deposit Account associated with the registered patent practitioner who signed the PTOL-85(b), R. Blake Johnson, Reg. No. 41,097, is 18-228**4**. As the proper deposit account number was not provided at the time the PTOL-85(b) was filed, the issue and publication fees were not timely paid, and the application in fact became abandoned.

As such, the showing of record is that petitioners intended to file a timely response to the Notice of Allowance and Fee(s) Due, but failed so to do.

The failure of the applicants to include the correct deposit account number is an avoidable mistake. Withdrawal of the holding of abandonment is not warranted when counsel makes an avoidable mistake.

Further in this regard, as MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[1]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[2] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[3]

In summary, it is the responsibility of applicants, not the USPTO, to ensure that the proper deposit account number is placed on documents authorizing a fee payment from a deposit account prior to submission to the Office. As such, the showing of

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[1] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[2] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[3] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

record is that the issue and publication fees which petitioners attempted to file on April 8, 2009 were not in fact timely submitted because an improper deposit account number was used. As such, the application was properly held abandoned, and the holding of abandonment will not be withdrawn.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This period may not be extended.**[4]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

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

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

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire

[4] 37 CFR 1.181(f).

delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 64807
Chicago IL 60664-0807

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MAR 23 2010

OFFICE OF PETITIONS

In re Application of :
Frederick J. Michelau :
Application Number: 11/079056 :
Filing Date: 03/14/2005 : ON PETITION
Attorney Docket Number: P6698 :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on December 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on January 12, 2009, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on May 8, 2009. On July 8, 2009, a petition to withdraw the holding of abandonment was filed, accompanied by evidence that a timely reply was filed on April 8, 2009. On December 4, 2009, the petition to withdraw the holding of abandonment was granted. Subsequently, it was discovered that counsel's deposit account number was not properly inscribed on

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

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

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

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

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

the papers shown to have been filed on April 8, 2009. Accordingly, the showing of record was that the fees were not timely paid, and a corrected decision was mailed on December 9, 2008 dismissing the petition. The subject petition to revive followed, accompanied by payment of the issue and publication fees and the petition fee.

It is noted that a terminal disclaimer was filed on December 18, 2009. As this is a utility application filed on or after June 8, 1995, no terminal disclaimer is necessary as part of a grantable petition to revive. The terminal disclaimer will not be entered, but will be retained in the file. The fee of $70.00 will be credited to counsel's deposit account.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address should be filed if the correspondence address needs to be updated.

The application is referred to the Office of Data Management for processing to a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DLA PIPER US LLP
203 N. LASALLE ST.
SUITE 1900
CHICAGO IL 60601

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/079,065	03/14/2005	Leo A. Eger	M8540/311653	9034

23370 7590 02/09/2009
JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

EXAMINER
LAM, THANH

ART UNIT	PAPER NUMBER
2834	

MAIL DATE	DELIVERY MODE
02/09/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, GA 30309

In re Application of:
Leo Eger
Serial No.: 11/079,065
Filed: March 14, 2005
Attorney Docket No.: M8540/311653

DECISION *SUA SPONTE*
WITHDRAWING HOLDING OF
ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

A Requirement for Restriction was mailed on March 18, 2008, setting a one-month shortened statutory period for response thereto. In an apparent failure to receive a response, the application was held abandoned and a Notice of Abandonment was mailed on December 16, 2008.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn in view of the fact that a series of telephone messages between applicant's representative Dean Russell and supervisor Darren Schuberg, as evidenced by the Interview Summary mailed 1/13/09 (detailing a telephone message left on 3/28/08) and applicant's letter of 6/4/08, resulted in a decision by the USPTO to withdraw the aforementioned restriction requirement and prepare an office action on the merits of all pending claims. The application is not abandoned in fact.

An Office action will be prepared by the examiner in due course in response to applicant's response filed October 22, 2007.

Any inquiry regarding this decision should be directed to Darren Schuberg, TQAS, at (571) 272-2044.

John Cabeca, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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LITMAN LAW OFFICES, LTD
PO BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of	:	
William H. Fargason III	:	
Application No. 11/079,075	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 15510.08	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed May 22, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

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

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3637 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of
THYSELL, Hakan
Application No. 11/079,081
Filed: March 15, 2005
Attorney Docket No. **328214US8**

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 12, 2008.

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

A review of the file record indicates that the power of attorney to HARNESS, DICKEY & PIERCE, P.L.C. has been revoked by the assignee of the patent application on July 03, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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

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625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/27/2010

Applicant	: Shu-Wei Ho	: DECISION ON REQUEST FOR
Patent Number	: 7586751	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/079,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OCT - 7 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

WESTERMAN, HATTORI, DANIELS
& ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of
Takashi Tokuda
Appl. No.: 11/079,104
Filed: March 15, 2005
For: **TELEVISION RECEIVER HAVING REINFORCEMENT/MOUNTING DUAL-PURPOSE STRUCTURE**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed August 23, 2005 and supplemented on September 23, 2005, to expunge information from the above identified application pursuant to 37 CFR 1.59(b). The supplemental is to clarify the request to expunge from record the Information Disclosure Statement filed on June 9, 2005.

The petition is **Granted**.

Petitioner requests that Information Disclosure Statement filed June 9, 2005, be expunged from the record. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

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

The expunged material has been closed from the electronic file.

Doris To
Special Programs Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 9 - 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KING & SPALDING LLP
191 PEACHTREE STREET, N.E.
45TH FLOOR
ATLANTA GA 30303-1763

In re Application of
BLAKE, JAMES A., et al.
Application No. 11/079,120
Filed: March 14, 2005
For: **ASSESSING ELECTRONIC IMAGE QUALITY**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 5, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

MAILED

JUL 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert R. Oberle	:	
Application No. 11/079,143	:	DECISION GRANTING PETITION
Filed: March 14, 2005	:	UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. RCDT-01005US0	:	

This is a decision on the petition, filed July 28, 2009, which is being treated as a petition under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application under 37 CFR 1.53(b).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

/Irvin Dingle/
Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of	:
Kazuyoshi Abe	:
Application No. 11/079,181	: DECISION GRANTING PETITION
Filed: March 15, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 123159	:

This is a decision on the petition, filed September 8, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 28, 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 3747 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\079181.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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RALEIGH NC 27614

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Eduardo Saucedo et al.
Application No. 11/079,200
Filed: March 15, 2005
Attorney Docket No: **11/119882**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed June 21, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "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 on December 12, 2006 for failure to file a timely response to the Final Office Action mailed September 11, 2006 which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed April 17, 2007.

Petitioner asserts unavoidable delay in responding to the Final Office Action.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3), above.

SHOWING OF UNAVOIDABLE DELAY

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

Petitioner has indicated that the Office Action was mailed to the address of his son, which was his previous address and the address of record, but that he did not receive the office action until after the period set for reply, thus the application became abandoned.

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 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).

While a review of the file reveals that a response was filed January 9, 2007, it was filed without an extension of time and thus was untimely. However, instead of an unavoidable delay, the facts presented demonstrate a lack of diligence. The abandonment could have been avoided if petitioner had acted with diligence to ensure that the USPTO had an updated address where mail could be delivered. In view thereof, the cause of delay in responding to the Office Action mailed September 11, 2006 can only be seen as an action that could have been avoided.

The showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[3], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire

---

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

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of :
Eduardo Saucedo et al. :
Application No. 11/079,200 : ON PETITION
Filed: March 15, 2005 :
Attorney Docket No. 11/119882 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed August 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on December 12, 2006, for failure to timely file a reply to the final Office action mailed September 11, 2006. Petitioner was advised by way of Advisory Notice mailed December 4, 2006, that the response filed November 13, 2006 failed to place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed April 17, 2007.

The present petition under 37 CFR 1.137(b) is accompanied by an amendment and a one month extension of time.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The Examiner has determined that the amendment filed with the present petition places the application in condition for allowance.

Additionally, 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 $60.00 extension of time fee submitted with the petition on August 14, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary. A refund will issue in due course.

The matter is being referred to Technology Center 3617.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA, ON K1P 5Y6
CANADA

Mail Date: 04/20/2010

Applicant	: Vincent So	: DECISION ON REQUEST FOR
Patent Number	: 7634134	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,222	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Patent No. : 7,634,134 B1
Inventor(s) : SO, Vincent
Issued : December 15, 2009
Application No: 11/079,222

Re. Request for Certificate of Correction

Consideration has been given your request under the provisions of Rule 1.323or 1.322.

The alleged error in column 16, claim 26, lines 41-42 is a change made in an Examiner's Amendment at time of allowance. Since no error is involved and since applicant filed no objection prior to payment of the base issue fee, the requested change will not be included in the Certificate of Correction.

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

A certificate of correction will issue to correct the remaining error noted in your rquest.

Further correspondence concerning this matter, should be directed to:

U.S. Patent and Trademark Office
Washington, DC 20231
Attn: Decisions & Certificates of Correction Branch

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(703) 756 -1583 or 1580

Michelle Bos Legal LLC
P.O. Box 803
Zillah, WA 98953

ej

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

MAY - 2 2007

Paper No. 042607

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

In re Application of
Murakami, Tetsuya
Application No.: **11/079250**
Filed: March. 15, 2005
For: **MEMORY CARD, SEMICONDUCTOR DEVICE, AND METHOD OF CONTROLLING MEMORY CARD**

WITHDRAWAL FROM ISSUE
37 CFR 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR 1.313.

The application is being withdrawn from issue because of unpatentability of at least one claim.

The US Patent and Trademark Office records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Fee(s) Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Fee(s) Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Any question regarding this communication should be directed to Amir Zarabian , Supervisory Patent Examiner, at (571) 272-1852.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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

May 11, 2009

Patent No. :7473378
Inventor(s) :Takeoka et al
Issued : January 8, 2009
Title :METHOD OF DESIGNING SEMICONDUCTOR INTEGRATED CIRCUIT IN WHICH
:FAULT DETECTION CAN BE EFFECTED THROUGHT SCAN-IN AND SCAN-OUT

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

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

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703)756-1541

600 14th Street N.W.
Washington, DC 20005-3096

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 9/6/07

TO SPE OF : Technology Center 2827

11/079300

SUBJECT : Request for Certificate of Correction on Patent No.: 7102931 B2

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

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

Elisha Evans

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 110

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

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

Comments:

CORRECTIONS ARE APPROVED.

SPE 2827 **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,102,931

DATED : September 5, 2007

INVENTOR(S) : Ichiro FUJIWARA et al.

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

Title Page:
Item (30) should be read as follows:

-- September 25, 2001 (JP)..... 2001-291759
February 21, 2002 (JP).....2002-044309
February 22, 2002 (JP).....2002-046998
June 27, 2002 (JP).....2002-188809 --.

Column 42, Line 37:
"peripheral circuit" should read – peripheral circuits --.

Column 42, Line 40:
"(Vc)" should read – (Vd) --

Column 42, Line 41:
"drawin" should read – drain --.

Column 42, Line 43:
"(Vb)" should read – (V8) --

MAILING ADDRESS OF SENDER:

Customer No. 23353
Rader, Fishman & Grauer PLLC
1233 20th Street, NW
Suite 501
Washington, DC 20036

PATENT NO. 7,102,931

AUG 3 2007

Our Ref: SON-2494/CON1
FORM PTO 1050 (REV. 3-82)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

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JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Iannarelli et al.	:	
Application No. 11/079,307	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 17635	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

A 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 attorney no longer legally represents the assignee, does not meet any the conditions set forth in 37 CFR 10.40.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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EVANS & MOLINELLI, PLLC
6411 CHAPEL VIEW ROAD
CLIFTON, VA 20124

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JUL 12 2005

OFFICE OF PETITIONS

In re Application of :
Miner et al. :
Application No. 11/079,308 :
Filed: March 14, 2005 :
Attorney Docket No. CIS001-016 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182 filed April 1, 2005, requesting the acceptance and entry of the nonpublication request submitted on April 1, 2005.

The petition is **dismissed**.

The merits of a petition under 37 CFR 1.182 will not be considered until the entire petition fee has been submitted. Effective November 1, 2004,[1] the fee for a petition under 37 CFR 1.182 was increased to $400. Petitioner has only submitted $130. Any request for reconsideration must include $270.

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) 272-3203
Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

---

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

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OFFICE OF PETITIONS

In re Application of :
Miner et al. :
Application No. 11/079,308 :
Filed: March 14, 2005 :
Attorney Docket No. CIS001-016 (Seq. 9990) :

ON PETITION

This is a decision on the petition filed August 1, 2005, under 37 CFR 1.182, ,requesting the acceptance and entry of the nonpublication request submitted on April 1, 2005.

The petition is **dismissed**.

35 USC 122(b)(1) requires the USPTO to publish an application unless an exception applies. None of the exceptions listed in 35 USC 122(b)(2) apply to the current situation.

The Office does not have the authority to waive a statutory requirement.

Petitioner may wish to file a petition under 37 CFR 1.138(c). Petitions under 37 CFR 1.138(c) are decided by Pre-Grant Publication Division and not the Office of Petitions.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Michael A. Sileo, Jr.
Microsemi Corporation
Suite 900
740 E. Campbell Rd.
Richardson TX 75081

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OFFICE OF PETITIONS

In re Application of	:
Kelly	: DECISION ON PETITION
Application No. 11/079,323	:
Filed: March 14, 2005	:
Atty. Dkt. No.: A706WTN-D1	:
(121116.00120)	:

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 22, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

The application was held abandoned for failure to timely submit a proper reply to the final Office action mailed June 1, 2007. The final Office set three month shortened statutory period of time for reply. A reply was filed July 30, 2007, but it failed to place the application in condition for allowance, as indicated in the Advisory Action mailed September 11, 2007. Notice of Abandonment was mailed December 27, 2007.

Petitioner asserts that a response to the final Office action in the form of a Notice of Appeal and an extension of time was submitted September 25, 2007, and have provided a copy of the reply purportedly submitted. The copy of the reply bears a certificate of mailing date of September 25, 2007, in accordance with 37 CFR 1.8.

The original response submitted September 25, 2007 has not been located in the application file. However, after careful consideration, the arguments and evidence submitted are found convincing.

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

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

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. Rourk 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. Rourk 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. Rourk, 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 two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application is being referred to Technology Center AU 2814 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Christopher J. Rourk
Jackson Walker L.L.P.
901 Main Street, Suite 6000
Dallas, Texas 75202

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OFFICE OF PETITIONS

ROSS J OEHLER
SANOFI-AVENTIS US LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER NJ 08807

In re Application	:	
Smith, et al.	:	
Application No. 11/079,327	:	DECISION ON APPLICATION
Filed: May 14, 2005	:	FOR PATENT TERM ADJUSTMENT
Atty Docket No.	:	
USAV2001/0002US CNT		

This is a decision on the "Combined Request for Reconsideration of Patent Term Adjustment Indicated in the Notice of Allowance (37 C.F.R. 1.705) and Statement of the Correct Patent Term Adjustment: Basis(es) Under 1.702 for the Adjustment (37 C.F.R. 1.705(b)(2)(i) and (ii))" filed November 2, 2006. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to forty eight (48) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **forty-~~seven~~ eight (~~47~~ 48) days.** A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 3, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days. On November 2, 2006, Applicants timely[1] submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is forty-eight (48) days.

Applicants assert entitlement to a patent term adjustment of forty-eight (48) days on the basis that the PTO improperly assessed Applicants a delay of ninety-two (92) days for responding to a November 16, 2005 non-final Office action by filing an Amendment on May 19, 2006. Applicants assert that they filed the Amendment on February 16, 2006.

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

The Office initially determined a patent term adjustment of zero (0) based on an adjustment for PTO delay of zero (0) days, reduced by Applicants' delays of ninety-two (92) days pursuant to 35 U.S.C. 154(b)(2)(C)(iii) and 37 C.F.R. § 1.704(b). The adjustment of ninety-two (92) days is at issue.

The adjustment of ninety-two (92) days has been found to be incorrect. Applicants have submitted a copy of a facsimile transmission report, indicating that an forty-three page Amendment was filed on February 16, 2006. Accordingly, this transmission report serves as prima facie evidence of receipt in the USPTO of the Amendment.[2] Accordingly, it is concluded that Applicant should not have been assessed any delayfor filing the Amendment on February 16, 2006, as this was within three months of the November 16, 2005 non-final Office action.

Furthermore, as Applicant filed the Amendment on February 16, 2006, the Office should have been assessed additional delay in not mailing a response (a Notice of Allowance) until August 3, 2006. Office delay should have been assessed as forty-~~seven~~ eight (48) days.

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

[2] See MPEP 503.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **forty-~~seven~~ eight (~~47~~ 48) days**.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e).

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

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

Kery A Fries

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

Enclosure: Copy of Revised PAIR Screen

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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas, TX 75219

Mail Date: 04/27/2010

Applicant	: Glenn Roy Pizzey	: DECISION ON REQUEST FOR
Patent Number	: 7595078	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/079,335	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **601** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Armstrong Teasdale LLP (12553 - 1000)
Patrick W. Rasche
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Jiang Hsieh	: DECISION ON REQUEST FOR
Patent Number	: 7602951	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,355	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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.

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ROSS J. OEHLER
SANOFI-AVENTIS U.S. LLC
1041 ROUTE 202-206
MAIL CODE: D303A
BRIDGEWATER, NJ 08807

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OFFICE OF PETITIONS

In re Application of	:	
SMITH et al	:	
Application No.: 11/079,366	:	DECISION ON PETITION
Filing Date: March 14, 2005	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: USAV2001/0002 US CNT 1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the Notice of Allowability mailed April 3, 2006, which set a three month period for reply. Accordingly, by operation of law, the above-identified application became abandoned on July 4, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of 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 is accepted as having been unintentionally delayed.

This application is being referred to the Office of Publications.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

BryanLin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Christopher J. Strauss	: DECISION ON REQUEST FOR
Patent Number	: 7657939	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **926** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Attn: Patent Docket Administrator
BorgWarner Inc.
Patent Department
3850 Hamlin Road
Auburn Hills MI 48326-2872

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OFFICE OF PETITIONS

In re Application of	:	
WARD, Daniel N.	:	
Application No. 11/079,416	:	DECISION ON PETITION
Filed: March 14, 2005	:	
Attorney Docket No. DKT04007	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before September 28, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed June 28, 2006 . Accordingly, the date of abandonment of this application is September 29, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 , the publication fee of $300, and corrected formal drawings , (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

The drawings have been approved by the USPTO draftsperson. Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: **AKERMAN SENTERFIT**
222 LAKEVIEW AVENUE, SUITE 400
POST OFFICE BOX 3188
WEST PALM BEACH, FL 33402-3188

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Sean O'Dowd
Cooley Godward Kronish LLP
ATTN: Patent Group
Suite 500
1200 195h Street, NW
Washington DC 20036-2402

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APR 27 2007

TECHNOLOGY CENTER 2100

In re Application of:
Justin Bertman et al.
Application No. 11/079417
Filed: March 14, 2005
For: Method and System for Analyzing Data for Potential Malware

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the August 24, 2006, under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition with the petition fee under 37 CFR 1.17(h) requesting the Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

The Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). A method and system for generating definitions for malware does not directly prevent "violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or any State" or activities "that would be a criminal violation if committed within the jurisdiction of the United States or of any State". Furthermore, a method and system for generating definitions for malware does not directly prevent acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

Although it can be said that a method and system for generating definitions for malware may incidentally limit acts of terrorism, the method and system disclosed do not teach directly preventing potential terrorist acts by identifying terrorists, identifying an individual as a terrorists or one who will perform a terrorist act, it may not as page 2 of the specification indicates that some malware is good malware.

In the USPTO's final ruling amending 37 CFR § 1.102 to eliminate the fee requirement for petitions to make special, the following standard was set for determining whether an invention qualified as "materially .... countering terrorism":

> The materiality standard does not permit an applicant to speculate as to how a hypothetical end-user might specially apply the invention in a manner that could counter-terrorism. Nor does such standard permit an applicant to enjoy the benefit of advanced examination merely because some minor aspect of the claimed invention may be directed to countering terrorism ...

The countering terrorism aspect of the instant invention consist only of the ability to generate definitions for malware. Applicants do not particularly claim any improvement in discerning terrorism events from non-terrorism events. For instance, Applicant's method and system do not distinguish good and bad malware.

Therefore, the instant petition fails to establish a sufficient nexus between the disclosed and claimed invention and preventing violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State or activities that would be a criminal violation if committed within the jurisdiction of the United States or of any State, or preventing acts that appear to be intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by assassination or kidnapping.

As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly, the petition is **DISMISSED**. The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

Tod R Swann
Quality Assurance Specialist
Technology Center 2100
Computer Security, Architecture and Software
571-272-3612

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/079,420	03/15/2005	Young-Choon Moon	19025.029	2667

28381 7590 12/31/2008
ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

EXAMINER
DESAI, RITA J

ART UNIT	PAPER NUMBER
1625	

MAIL DATE	DELIVERY MODE
12/31/2008	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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Date Mailed: December 31, 2008

ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

Applicant: Moon et al.
Appl. No.: 11/079,420
Filing Date: March 15, 2005
Title: CARBOLINE DERIVATIVES USEFUL IN THE INHIBITION OF ANGIOGENESIS
Attorney Docket No.: 19025.029
Pub. No.: US 2005/0272759 A1
Pub. Date: December 8, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 31, 2008, for the above-identified application.

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

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

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

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, **as a Pre-Grant publication submission.** The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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

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

By facsimile: 571-273-8300

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

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

Adjustment date: 01/05/2009 KKING1
12/31/2008 INTEFSW 00006469 503013 11079420
01 FC:1504 300.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

MAILED

AUG 28 2009

OFFICE OF PETITIONS

In re Application of :
Moon, et al. :
Application No. 11/079,420 :
Filed: March 15, 2005 :
Atty Docket No. 10589-099-999 :

DECISION
ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed July 7, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is at a minimum one thousand and fifty(1,050) days[1], not five hundred and seven (507) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

The request for review of the patent term adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PAIR screen to reflect that the correct patent term adjustment at the time of mailing of the Notice of Allowance on April 8, 2009 is **four hundred fifty-nine(459) days**.

A copy of the updated PAIR screen, showing the correct determination, is enclosed.

To the extent 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**.

[1] This calculation is based on a projected issuance date of November 3, 2009.

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.

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].

---

[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.

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).

To the extent that applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **granted**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred fifty-nine (459) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 8, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 507 days. The instant application for patent term adjustment was timely filed[3] on or before payment of the issue fee. Applicants assert an additional reduction of forty-eight (48) days for applicant delay associated with Information Disclosure Statements (IDSs) filed on July 28, 2008, August 5, 2008 and August 18, 2008 is in order. In addition, applicants state that a reduction for a 312 amendment filed on May 1, 2009 should be included in the Determinaion of Patent Term Adjustment under 35 U.S.C. 154(b).

Applicants' assertion with respect to the IDSs has been considered and found persuasive. A review of the record reveals an additional basis for entry of a period of reduction for applicant delay. Specifically, 37 CFR 1.704(c), states, in pertinent part, that

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

[3] PALM records indicate that the issue fee was paid on July 7, 2009.

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

37 CFR 1.704(d) states:

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

On July 28, 2008, August 5, 2008, and August 13, 2008, IDSs were filed, the last one in time being filed 48 days after the filing of an amendment on July 1, 2008. The IDSs did not contain the statement set forth in 37 CFR 1.704(d). Accordingly, pursuant to 37 CFR 1.704(c)(8), an additional reduction of 48 days of patent term adjustment is being entered.

With respect to applicants' argument that an additional reduction for a 312 amendment filed on May 1, 2009 should be included in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b), applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The 312 amendment filed on May 1, 2009 was filed **after** April 8, 2009, when the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Therefore, it could not have been considered in the initial determination and will be addressed in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is four hundred fifty-nine (459) days (597 Office delay- 138 applicant delay).

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM PTA Calculation for Application

Day : Thursday
Date: 8/27/2009

PALM INTRANET

Time: 22:54:23

PTA Calculations for Application: 11/079420			
Application Filing Date:	03/15/2005	PTO Delay (PTO):	597
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	90
Post-Issue Petitions:	0	Total PTA (days):	459
PTO Delay Adjustment:	-48		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
111	08/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		48	
90	04/08/2009	MAIL NOTICE OF ALLOWANCE			
89	04/07/2009	ISSUE REVISION COMPLETED			
88	04/06/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
87	04/06/2009	DOCUMENT VERIFICATION			
86	04/06/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
85	04/06/2009	CASE DOCKETED TO EXAMINER IN GAU			
84	04/06/2009	EXAMINER'S AMENDMENT COMMUNICATION			
83	03/26/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
82	03/30/2009	NOTICE OF ALLOWABILITY			
79	01/29/2009	PG-PUB SUBMISSION			
78	01/26/2009	DATE FORWARDED TO EXAMINER			
77	12/29/2008	RESPONSE AFTER NON-FINAL ACTION			
76	01/08/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
75	01/07/2009	CORRESPONDENCE ADDRESS CHANGE			
74	12/31/2008	MAIL-PETITION DECISION - DISMISSED			
73	12/31/2008	PETITION DECISION - DISMISSED			
72	12/31/2008	PETITION ENTERED			
71	08/14/2008	NEW OR ADDITIONAL DRAWING FILED			
70	09/29/2008	MAIL NON-FINAL REJECTION			
69	09/27/2008	NON-FINAL REJECTION			
68	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

67	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
66	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
63	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
62	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
61	08/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	08/13/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
59	08/05/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
58	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	07/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
53	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	08/13/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
51	08/05/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

46	07/28/2008	FILED			
45	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
44	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
40	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	07/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	07/15/2008	DATE FORWARDED TO EXAMINER			
37	07/01/2008	RESPONSE AFTER NON-FINAL ACTION		90	35
36	07/01/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	01/02/2008	MAIL NON-FINAL REJECTION	597		-1
34	12/26/2007	NON-FINAL REJECTION			
33	09/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	09/05/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	06/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	05/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	04/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	04/04/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	03/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	12/06/2007	PG-PUB ISSUE NOTIFICATION			
25	09/05/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
23	09/05/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

21	06/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	05/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17.7	04/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	04/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	04/04/2007	REFERENCE CAPTURE ON IDS			
15.7	04/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	04/04/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/13/2006	REFERENCE CAPTURE ON IDS			
13.7	03/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	11/04/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	11/04/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	08/31/2005	APPLICATION DISPATCHED FROM OIPE			
9	08/31/2005	APPLICATION IS NOW COMPLETE			
8	07/05/2005	ADDITIONAL APPLICATION FILING FEES			
7	07/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	05/06/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	04/27/2005	CLEARED BY L&R (LARS)			
3	04/05/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	03/27/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/15/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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APR 07 2010

OFFICE OF PETITIONS

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

In re Patent No. 7,601,840	:	DECISION ON REQUEST FOR
Moon et al.	:	RECONSIDERATION OF
Issue Date: October 13, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 11/079,420	:	NOTICE OF INTENT TO ISSUE
Filed: March 15, 2005	:	CERTIFICATE OF CORRECTION
Atty Docket No. 10589-099-999	:	

This is a decision on the petition filed on December 10, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-nine (1029) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand twenty-eight (1028) days**.

With regard to applicant delay, patentee acknowledges that a period of reduction should have been entered pursuant to 37 CFR 1.704(c)(10) for the period from the submission of an amendment under § 1.312 on May 1, 2009, to the mailing of the Response to Rule 312 Communication on May 8, 2009. However, patentee incorrectly calculated this period of delay as 7 days instead of 8 days as reflected in the PAIR and PALM screens.

In this instance, the period of reduction pursuant to 37 CFR 1.704(c)(10)(i) is 8 days, beginning on the date on which date

the amendment under § 1.312 was filed,[1] May 1, 2009, and ending on the mailing of the Response to Rule 312 Communication, May 8, 2009. Thus, applicant delay is 146 days (90 + 8 + 48) not 145 days as indicated by patentee.

Accordingly, the patent term adjustment is 1028 days (597 days of A delay + 577 days of B delay - 146 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, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand twenty-eight (1028) days.**

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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[1] "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT: 7,601,840 B2

DATED: Oct. 13, 2009 **DRAFT**

INVENTOR(S): Moon 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 451 days

Delete the phrase "by 451 days" and insert – by 1028 days--

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

AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

COPY MAILED

JUL 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Eugene C. Chellis et al. :
Application No. 11/079,422 : ON PETITION
Filed: March 14, 2005 :
Attorney Docket No. **MS150715.03 / MSFTP181USB** :

This is a decision on the petition filed January 29, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

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

This application became abandoned November 9, 2006 for failure to timely pay the issue fee on or before November 8, 2006. Accordingly, a Notice of Abandonment was mailed December 11, 2006.

The issue fee, publication fee and petition fee have all been applied.

37 CFR 1.137(b)(3) however, requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement

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

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

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

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

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

contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

All other requirements of 37 CFR 1.137(b) having now been met, this application file is being forwarded to the Publishing Division to be processed into a patent.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

30 MAY 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COPY

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Thomas Q Henry
Woodard Emhardt Moriarty McNett & Henry LLP
111 Monument Circle
3700 Bank One Tower
Indianapolis IN 46204

RECEIVED
JUN 0 3 2005
Woodard, Emhardt, Moriarty, McNett & Henry LLP

In re Application of	:	
UFER et al.	:	
Application No.: 10/495,859	:	DECISION
PCT No.: PCT/US02/36774	:	
Int. Filing Date: 15 November 2002	:	
Priority Date: 16 November 2001	:	
Attorney Docket No.: 7404-444	:	
For: BIOMEDICAL ELECTROCHEMICAL SENSOR	:	
ARRAY AND METHOD OF FABRICATION	:	

This is a decision on applicants' petition under 37 CFR 1.47(a) filed 29 March 2005 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 15 November 2002, applicants filed international application PCT/US02/36774, which designated the United States and claimed a priority date of 16 November 2001. A copy of the international application was communicated from the International Bureau to the USPTO on 30 May 2003. The thirty-month period for paying the basic national fee in the United States expired at midnight on 17 May 2004 (16 May 2004 being a Sunday).

On 17 May 2004, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 September 2004, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1492(e) for providing the oath or declaration later than thirty months from the priority date were required.

On 29 March 2005, applicants filed the instant petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of the inventors, the surcharge under 37 CFR 1.492(e) for providing the declaration of inventors later than thirty months from the priority date, a petition under 37 CFR 1.47(a), and a petition/fee for a five month extension of time.

On 25 May 2005, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (PCT/DO/EO/909) indicating that the application was abandoned for failure to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2004.

DISCUSSION

Because a response to the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2004 was filed 29 March 2005, the NOTIFICATION OF ABANDONMENT mailed 25 May 2005 is hereby VACATED.

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

Items (1)-(4) have been satisfied.

CONCLUSION

For the above reasons, the NOTIFICATION OF MISSING REQUIREMENTS mailed 13 September 2004 is VACATED.

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **29 March 2005**.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459

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Paper No. None

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AUSTIN TX 78768

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SEP 06 2005

OFFICE OF PETITIONS

In re Application of
Hans Amler
Application No. 11/079,460
Filing Date: March 12, 2005
Attorney Docket Number: 5858-04500
Title of Invention: SOLID STATE LASER

DECISION ON PETITION
UNDER 37 C.F.R. §1.10(C)

BACKGROUND

This is a decision on the petition filed June 27, 2005, requesting that the above-identified application be accorded a filing date of March 11, 2005.

Shortly after the above-identified application was received in the Office, the Office of Initial Patent Examination mailed Petitioner's filing receipt, indicating that the application had been accorded a filing date of March 12, 2005.

Petitioner has alleged that the application was deposited on March 11, 2005, and the Patent Office has incorrectly assigned a filing date of March 12, 2005 to the instant application. Petitioner has set forth that this application was sent to the Office via the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS), and that Express Mail label EV571574981US[1] was associated with this mailing.

Petitioner has further alleged that the application was deposited before the last pick-up time on March 11, 2005, but the package was not picked up until the following morning on March 12, 2005.

It is noted that Petitioner has not included a copy of the Express mail label with his petition.

1 It is noted that this same Express Mail number appears on the Utility Patent Application Transmittal Sheet, which has been located in the electronic file.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (<http://www.usps.com/shipping/trackandconfirm.htm>) was also inconclusive, in that it stated that the information pertaining to this Express Mail label number is stored off-line.

Petitioner has not enclosed a print-out from this same website, from prior to the information being taken off-line.

Without a copy of the express-mail label, or access to USPS records, there is no way for the Office to determine what information appears on the Express Mail label. However, based on Petitioner's assertion that the package was not picked up until the day following that depositing of said package, it is reasonable to assume that the Express Mail label contains a "date-in" of March 12, 2005.

THE RELEVANT PORTION OF THE MPEP

37 C.F.R. § 1.10 Filing of correspondence by "Express Mail" sets forth, in part:

d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

[48 FR 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 FR 4285, Jan. 31, 1983, paras. (a) & (c), 49 FR 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 FR 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 67 FR 36099, May 23, 2002, effective June 24, 2002; paras. (c), (d), (d)(3), (e) & (e)(4) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(1) revised, 68 FR 48286, Aug. 13, 2003, effective Sept. 12, 2003]

ANALYSIS

Petitioner has not met the requirements of 37 C.F.R. §1.10(d)(3), in that he has failed to establish 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.

Petitioner has not provided evidence from the USPS which would establish that on March 11, 2005, the last pickup was not performed, and the packages which should have been picked up during the last scheduled pickup for that day were instead picked up the following morning on March 12, 2005.

Petitioner has not provided evidence 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. Petitioner has provided an affidavit of a legal assistant, executed on June 27, 2005, which sets forth that it is the standard business practice of this law firm to deposit packages for Express Mail service prior to the last pickup time, but clearly this cannot constitute the level of evidence required by 37 C.F.R. §1.10(d)(3).

CONCLUSION

Therefore, this petition is **DISMISSED**.

The filing date will remain March 12, 2005.

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. 1.10(d)". This is not a final agency action within the meaning of 5 U.S.C 704. The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[2], hand-delivery[3], or facsimile[4].

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

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

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2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number. On July 15, 2005, the Central FAX Number
changed to (571) 273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the
old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, PC
100 NORTH BROADWAY
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OKLAHOMA CITY, OK 73102-8820

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OCT 26 2005

OFFICE OF PETITIONS

In re Application of John V. Biondo, Ravi K. Sawhney, Kurt Botsai, Lance G. Hussey, Craig R. Steele, Simon Risley, Michael S. Schuffert, Jeffrey L. Demarb, Shalom Flank, Andrew Miller, Glenn Ostrom, Stephen Spelbring and Stephen K. Velte Application No. 11/079,474 Filed: March 15, 2005 Title: RAPID DISPATCH EMERGENCY SIGNS	:	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed October 11, 2005.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on March 15, 2005 without an executed oath or declaration and naming John V. Biondo, Ravi K. Sawhney, Kurt Botsai, Lance G. Hussey, Craig R. Steele, Simon Risley, Michael S. Schuffert, Jeffrey L. Demarb, Shalom Flank, Andrew Miller, Glenn Ostrom, Stephen Spelbring and Stephen K. Velte as joint inventors.

Accordingly, on April 11, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on October 11, 2005, the instant petition and a four (4) month extension of time were filed.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration;

(3) the petition fee; and

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

Applicant lacks items (1), (2) and (4), as set forth above.

As to item (1),

Regarding Jeffrey L. Demarb:
Applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Regarding Shalom Flank:
Applicant appears to demonstrate that the non-signing inventor, through his attorney H. Wayne Porter of Banner & Witcoff, was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

However, applicant also asserts that inventor Flank cannot be located. However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor.

Where inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made. The 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, telephone directory 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 specific 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. See MPEP 409.03(d).

Regarding Andrew Miller:
Applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Regarding Glenn Ostrom:
Applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Regarding Stephen Spelbring:
Applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Regarding Stephen Velte:
Applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. Many of the signature blocks are on different sheets and make no reference towards the inclusion of any other joint inventor. See MPEP 602:

> "When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with each of the other inventors indicating them by name. This may be done by stating that he or she does verily believe himself or herself to be the original, first and joint inventor together with 'A' or 'A & B, etc.' as the facts may be."

Additionally, the signature block of inventor Shalom Flank is missing the inventor's address and citizenship. Please note, the citizenship requirement is statutory and cannot be waived.

As to item (4), a statement of inventor Shalom Flank's last known address is missing and is required. See MPEP 409.03(e).

Furthermore, please note, the power of attorney, submitted July 27, 2005, and signed by inventor Stephen K. Velte, has not been accepted. The power of attorney must be signed by all of the inventors that have joined in the application.

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OKLAHOMA CITY, OK 73102-8820

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele,
Simon Risley, Michael S. Schuffert,
Jeffrey L. Demarb, Shalom Flank,
Andrew Miller, Glenn Ostrom,
Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

DECISION GRANTING PETITION
UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed December 23, 2005.

The petition is **granted**.

Petitioner has shown that non-signing inventors John V. Biondo, Michael S. Schuffert, Jeffrey L. Demarb, Shalom Flank, Andrew Miller, Glenn Ostrom and Stephen K. Velte have 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 2800 for examination *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JOHN V. BIONDO
5758 BEVIS AVENUE
VAN NUYS, CA 91411

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele,
Simon Risley, Michael S. Schuffert,
Jeffrey L. Demarb, Shalom Flank,
Andrew Miller, Glenn Ostrom,
Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

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JAN 1 1 2006

OFFICE OF PETITIONS

Dear JOHN V. BIONDO:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL S. SCHUFFERT
7625 LURLINE AVENUE
CANOGA PARK, CA 91306

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JAN 1 1 2006

OFFICE OF PETITIONS

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele,
Simon Risley, Michael S. Schuffert,
Jeffrey L. Demarb, Shalom Flank,
Andrew Miller, Glenn Ostrom,
Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

Dear MICHAEL S. SCHUFFERT:

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.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JEFFREY L. DEMARB
W3847 HILLCREST LANE
FOND DU LAC, WI 54935

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JAN 11 2006
OFFICE OF PETITIONS

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele,
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Andrew Miller, Glenn Ostrom,
Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

Dear JEFFREY L. DEMARB:

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.

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

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ANDREW MILLER
1318 SPIKE COURT
NEENAH, WI 54956

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OFFICE OF PETITIONS

In re Application of
John V. Biondo, Ravi K. Sawhney,
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Andrew Miller, Glenn Ostrom,
Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

Dear ANDREW MILLER:

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.

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Petitions Attorney
Office of Petitions
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UNITED STATES PATENT AND TRADEMARK OFFICE

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GLENN OSTROM
4715 DOGWOOD COURT
APPLETON, WI 54914

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele,
Simon Risley, Michael S. Schuffert,
Jeffrey L. Demarb, Shalom Flank,
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Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

COPY MAILED

JAN 1 1 2006

OFFICE OF PETITIONS

Dear GLENN OSTROM:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
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STEPHEN K. VELTE
3837 NORTHDALE BLVD., STE. 193
TAMPA, FL 33624

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele,
Simon Risley, Michael S. Schuffert,
Jeffrey L. Demarb, Shalom Flank,
Andrew Miller, Glenn Ostrom,
Stephen Spelbring and Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

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JAN 1 1 2006

OFFICE OF PETITIONS

Dear STEPHEN K. VELTE:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

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

FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, PC
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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SHALOM FLANK
C/O H. WAYNE PORTER
1001 G STREET, N.W., 11TH FLOOR
WASHINGTON, D.C. 20001-4597

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OFFICE OF PETITIONS

In re Application of
John V. Biondo, Ravi K. Sawhney,
Kurt Botsai, Lance G. Hussey, Craig R. Steele, Simon Risley,
Michael S. Schuffert, Jeffrey L. Demarb, Shalom Flank,
Andrew Miller, Glenn Ostrom, Stephen Spelbring and
Stephen K. Velte
Application No. 11/079,474
Filed: March 15, 2005
For: RAPID DISPATCH EMERGENCY SIGNS

Dear SHALOM FLANK:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
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JJGJR.: 08-06

Paper No: __

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1701 MARKET STREET
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of :
Gardner, et al. :
Application No. 11/079,493 :
Filing Date: 14 March, 2005 :
Attorney Docket No.: 056751-5103-03 :

DECISION

This is a decision on the petition filed on 17 April, 2006, alleging unintentional delay under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due (fees and supplemental oath/declaration) mailed on 31 October, 2005, with reply due under a non-extendable deadline on or before 31 January, 2006;
- the instant application went abandoned after midnight 31 January, 2006;
- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- on 17 April, 2006, Petitioner filed the instant petition (with fee) and the reply in the form of fees due and oath/declaration, and made the statement of unintentional delay.

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

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt,[7] and so cannot satisfy the test for diligence and due care.

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

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[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

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

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

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

As to the Allegation
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The instant application is released to Publications Branch to be processed into a patent in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER LLP
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WASHINGTON DC 20007

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OFFICE OF PETITIONS

In re Application of	:	
Megawa et al.	:	
Application No. 11/079,521	:	DECISION ON PETITION
Filed: 15 March, 2005	:	
Atty Docket No. 086531-0142	:	

This is a decision on the petition filed on 10 May, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 3 November, 2005, for failure to timely reply to the Notice to File Corrected Application Papers mailed on 2 September, 2005, which set a two (2) month shortened period for reply. No extensions of time under 37 CFR

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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)).

1.136(a) were obtained. Notice of Abandonment was mailed on 8 May, 2006.

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of

Ariarajah, et al.

Application No. 11/079,540

Filed: March 14, 2005

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed November 10, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on April 26, 2008, after it was believed that no response was received to the non-final Office action mailed January 25, 2008. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on September 3, 2008, indicating that a reply to the notice was not received.

A review of the application file record did reveal that a response to the non-final Office action was filed on June 25, 2008, with a request for an extension of time within the second month. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the maximum statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3600, GAU 3696, for further processing, including processing of the response to the non-final Office action which was filed June 25, 2008.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : May 30, 2007

TO SPE OF : ART UNIT 1754

SUBJECT : Request for Certificate of Correction for Appl. No. 11/079552 patent no. 7160350

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments:

Wayne A. Langel — SPE

1793 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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YORKTOWN HEIGHTS NY 10598

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OFFICE OF PETITIONS

In re Application of	:	
Marcel WALDVOGEL	:	
Application No. 11/079,554	:	DECISION ON PETITION
Filed: March 14, 2005	:	
Attorney Docket No. CH920030079US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 22, 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-compliant notice mailed, April 01, 2009, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 02, 2009.

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 of $1.620.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-compliant notice of April 01, 2009, 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 2161 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

CC: **MICHAEL BUCHENHORNER, P.A.**
8540 SW 83 STREET
SUITE 100
MIAMI, FL 33143

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 1 2 2009

OFFICE OF PETITIONS

John Q. McQuillan
125 Crestwood Avenue
Tuckahoe NY 10707-2208

In re Application of
William Bohmer, et al.
Application No. 11/079,564
Filed: March 14, 2005
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed February 26, 2009, to revive the above-identified application.

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

A review of the application file revealed that a non-final Office was mailed in this application on June 26 2007. The notice allowed a shortened statutory period for reply of three months from its mailing date. The period for response thereto was reset by a communication mailed July 18, 2007. Extensions of the times set for reply are available pursuant to 37 CFR 1.136(a). A response in the form of an amendment was filed on Jnauary 28, 2008, with a request for an extension of time within the third month. A Notice of Non-Compliant Amendment was mailed February 21, 2008, allowing a one-month period for reply with extensions of time under 37 CFR 1.136(a). An amendment was filed responsively on May 23, 2008, with an extension of time within the second month. A Notice of Non-Compliant Amendment was again mailed on September 4, 2008, allowing a one-month period for reply with extensions of time under 37 CFR 1.136(a) available. A response was filed October 6, 2008, which was not a proper response to the Notice of Non-Compliant Amendment. On February 11, 2009, a Notice of Abandonment was mailed indicating that the application had become abandoned for failure to file a proper response to the non-final Office action and to file a proper response to the repeated Notices of Non-Compliant Amendment.

A grantable petition under 37 CFR 1.137(a)[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(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks items (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.

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a).

With regard to item (1) above, a proper response to the non-final Office action mailed June 26, 2007, is required to accompany a successful petition under 37 CFR 1.137(a). The response must be an amendment or continuing application. The renewed petition must be accompanied by a proper response to the non-final Office action.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive because it is not accompanied by the showing that is required by 37 CFR 1.137(a). While illness of a relevant party can be a reason for unavoidable delay in responding to an Office action, petitioner must establish by a proper showing that the illness existed for the entire period of delay. Such a showing could be made by a letter from the treating physician or medical records that explain that the period of the illness and the severity of the same. In this case, petitioner must establish that from August 2008, until the filing of a grantable petition, petitioner was so ill that petitioner was unable to properly respond to the non-final Office action[10]. Petitioner is required to file such documentary evidence with the renewed petition being careful to redact any personal identifiers, such as social security numbers and the like.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

---

[9] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

[10] It is noted that the application was not abandoned as of August 2008, however; petitioner states that this is when petitioner became ill and the record reflects that during the period after August 2008, petitioner's responses to the Notice of Non-Compliant Amendment were not responsive and there does not appear to be an active effort to advance the prosecution of the application.

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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APR 15 2009

OFFICE OF PETITIONS

John Q. McQuillan
125 Crestwood Avenue
Tuckahoe NY 10707-2208

In re Application of :
William Bohmer, et al. :
Application No. 11/079,564 : ON PETITION
Filed: March 14, 2005 :
Attorney Docket No.

This is a decision on the renewed petition under 37 CFR 1.137(a), filed March 25, 2009, to revive the above-identified application.

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

A review of the application file revealed that a non-final Office was mailed in this application on June 26 2007. The notice allowed a shortened statutory period for reply of three months from its mailing date. The period for response thereto was reset by a communication mailed July 18, 2007. Extensions of the times set for reply are available pursuant to 37 CFR 1.136(a). A response in the form of an amendment was filed on Jnauary 28, 2008, with a request for an extension of time within the third month. A Notice of Non-Compliant Amendment was mailed February 21, 2008, allowing a one-month period for reply with extensions of time under 37 CFR 1.136(a). An amendment was filed responsively on May 23, 2008, with an extension of time within the second month. A Notice of Non-Compliant Amendment was again mailed on September 4, 2008, allowing a one-month period for reply with extensions of time under 37 CFR 1.136(a) available. A response was filed October 6, 2008, which was not a proper response to the Notice of Non-Compliant Amendment. On February 11, 2009, a Notice of Abandonment was mailed indicating that the application had become abandoned for failure to file a proper response to the non-final Office action and to file a proper response to the repeated Notices of Non-Compliant Amendment. A petition under 37 CFR 1.137(a) was first filed on February 26, 2009, and dismissed by a decision mailed March 12, 2009.

A grantable petition under 37 CFR 1.137(a)[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(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

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[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.

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a).

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive because it is again not accompanied by the showing that is required by 37 CFR 1.137(a). While illness of a relevant party can be a reason for unavoidable delay in responding to an Office action, petitioner must establish by a proper showing that the illness existed for the entire period of delay. Such a showing could be made by a letter from the treating physician or medical records that explain that the period of the illness and the severity of the same. In this case, petitioner must establish that from August 2008, until the filing of a grantable petition, petitioner was so ill that petitioner was unable to properly respond to the non-final Office action[10]. The petition was not accompanied by an documentary evidence of petitioner's illness. Petitioner is required to file such documentary evidence with the renewed petition being careful to redact any personal identifiers, such as social security numbers and the like.

It is noted that petitioner filed a renewed petition under 37 CFR 1.137(a), but remitted an additional $540.00 for a petition fee. It is not clear whether petitioner intended to file a petition under 37 CFR 1.137(b) for unintentional delay or a renewed petition under 37 CFR 1.137(a). If petitioner wishes to pursue revival of the application under 37 CFR 1.137(b), petitioner must complete the enclosed form and remit an additional $270.00. Petitioner is advised that the fee for the petition under 37 CFR 1.137(a) is $270.00 and must be paid as a condition of considering the merits of the petition. The fee for the petition under 37 CFR 1.137(a) is not refundable or transferable to the fee required for a petition under 37 CFR 1.137(b). Accordingly, the petition under 37 CFR 1.137(a) has a fee of $270.00 and the petition under 37 CFR 1.137(b) has a fee of $810.00. As per petitioner's instructions, the accounting department took the $270.00 fee for the

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[8] See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

[10] It is noted that the application was not abandoned as of August 2008, however; petitioner states that this is when petitioner became ill and the record reflects that during the period after August 2008, petitioner's responses to the Notice of Non-Compliant Amendment were not responsive and there does not appear to be an active effort to advance the prosecution of the application.

petition under 37 CFR 1.137(a) and credited toward the petition under 37 CFR 1.137(b). This should not have been done, and the amount of $270.00 will be deducted from the $810.00 paid and converted back to the fee for petition under 37 CFR 1.137(a). If petitioner wishes to file a petition under 37 CFR 1.137(b), petitioner must remit an additional $270.00 which will be paired with the $540.00 that will remain in a holding status on the application.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

PTO/SB/64 (03-09)
Approved for use through 04/30/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John Q. McQuillan
125 Crestwood Avenue
Tuckahoe NY 10707-2208

MAILED

JUN 29 2009

OFFICE OF PETITIONS

In re Application of :
William Bohmer, et al. :
Application No. 11/079,564 :
Filed: March 14, 2005 :
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

A review of the application file revealed that a non-final Office was mailed in this application on June 26 2007. The notice allowed a shortened statutory period for reply of three months from its mailing date. The period for response thereto was reset by a communication mailed July 18, 2007. Extensions of the times set for reply are available pursuant to 37 CFR 1.136(a). A response in the form of an amendment was filed on January 28, 2008, with a request for an extension of time within the third month. A Notice of Non-Compliant Amendment was mailed February 21, 2008, allowing a one-month period for reply with extensions of time under 37 CFR 1.136(a). An amendment was filed responsively on May 23, 2008, with an extension of time within the second month. A Notice of Non-Compliant Amendment was again mailed on September 4, 2008, allowing a one-month period for reply with extensions of time under 37 CFR 1.136(a) available. A response was filed October 6, 2008, which was not a proper response to the Notice of Non-Compliant Amendment. On February 11, 2009, a Notice of Abandonment was mailed indicating that the application had become abandoned for failure to file a proper response to the non-final Office action and to file a proper response to the repeated Notices of Non-Compliant Amendment. A petition under 37 CFR 1.137(a) was first filed on February 26, 2009, and dismissed by a decision mailed March 12, 2009.

The amendment filed March 25, 2009, is noted.

The application is being forwarded to Technology Center 2800, GAU 2856 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

MICHAEL A. O'NEIL
MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE, SUITE 820
DALLAS TX 75225

In re Application of

DESALEGN, Emru Y.
Application No. 11/079,568
Filed: March 14, 2005
Attorney Docket No. **110125-1002**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2008.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indications that acts (1) and (2) noted in the above-identified certifications have been performed. Please note the warning on the form PTO/SB/83.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

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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APR 27 2009

OFFICE OF PETITIONS

MICHAEL A. O'NEIL
MICHAEL A. O'NEIL, P.C.
5949 SHERRY LANE, SUITE 820
DALLAS TX 75225

In re Application of	:	
DESALEGN, Emru Y.	:	
Application No. 11/079,568	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. **110125-1002**	:	FROM RECORD
	:	

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, 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 Michael O'Neil, the sole attorney of record. Michael O'Neil have 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 Emru Desalegn at the address indicated below. There is an outstanding Office action mailed December 19, 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: **EMRU Y. DESALEGN**
ETHIO ENGERA EQUIPEMENT
3421 AQUARIUS CIRCLE
GARLAND TX 75044

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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AUG 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Frank J. JAKUBAITIS	:	
Application No. 11/079,579	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 006969.P001C	:	FROM RECORD
	:	

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 17, 2006.

The request is **APPROVED**.

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

The request was signed by Eric T. King on behalf of all attorneys of record.

All attorneys/agents associated with the Customer Number 08791 have been withdrawn.

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

All future correspondence will be directed to the sole named inventor Frank J. Jakubaitis at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Frank J. Jakubaitis
2487 McCoy Drive
Tustin, CA 92782

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
11/079,579	03/14/2005	Frank J. Jakubaitis	6969P001C

CONFIRMATION NO. 1957

OC000000019985030

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

Date Mailed: 08/10/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2006.

- 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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P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

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JUN 13 2008

OFFICE OF PETITIONS

In re Application of :
Takahiro Nakano et al :
Application No. 11/079,600 :
Filed: March 15, 2005 :
Attorney Docket No. 122957

ON PETITION

This is a decision on the petition, filed June 13, 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 16, 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 1791 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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Thomas P. Liniak
Valeo Climate Control Corp.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills, MI 48323

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OFFICE OF PETITIONS

In re Application of	:	
Steven B. Marshall et al.	:	
Application No. 11/079,622	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. TUS0388	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

Diana Chase for
David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

In re Patent No. 7,094,080	:	
Issued: August 22, 2006	:	
Application No. 11/079,629	:	NOTICE
Filed: March 14, 2005	:	
Patentee: Robert G. Dickie, et al.	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of
Breslin et al.
Application No. 11/079,647
Filed: March 14, 2005
Docket No. PRD2200USNP
Title: NOVEL COMPOUNDS AS OPIOID RECEPTOR MODULATORS

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. 1.705," filed January 13, 2009. Applicants request that the determination of patent term adjustment be increased by at last four hundred and two (402) days to a minimum of six hundred and nine (609) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants contend that the period of adjustment for Office delay pursuant to 37 C.F.R. § 1.702(a)(1) should be 428 days, and not 330 days.

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, 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].

To the extent that Applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **DISMISSED**.

---

[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.

On April 9, 2007 (14 months and 330 days after the filing of this application), the Office mailed a first restriction requirement. On July 16, 2007 (14 months and 428 days after the filing of this application), a second restriction requirement was mailed, which indicated, *in pertinent part* "[t]he Restriction Requirement of April 09, 2007 is rescinded and is replaced by this action."[2] As such, Applicants argue that the examination delay pursuant to 37 C.F.R. § 1.702(a)(1) should be 428 days, not 330 days.

Applicants' arguments are not persuasive. Pursuant to 37 C.F.R. § 1.702(a),

> 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;

On April 9, 2007, the Office mailed a first notification under 35 U.S.C. 132. This was fourteen months and 330 days after the filing of the application. Accordingly, a period of adjustment of 330 days was entered for Office delay pursuant to 37 CFR 1.702(a)(1). A review of the record confirms that this was the proper period of adjustment for Office delay.

The subsequent mailing of a communication by the examiner altering the previous action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on April 9, 2007. The examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on April 9, 2007 will be used to calculate the amount of Office delay. It follows that the examination delay pursuant to 37 C.F.R. § 1.702(a)(1) remains 330 days.

---

[2] Restriction requirement of July 16, 2007, page 2.

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

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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5TH FLOOR - STOP 49
NEW YORK NY 10017-5612

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OFFICE OF PETITIONS

In re Application of	:
John Charles Kath et al	:
Application No. 11/079,648	: DECISION GRANTING PETITION
Filed: March 14, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. PC10760B	:

This is a decision on the petition under 37 CFR 1.137(b), filed August 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of October 12, 2005, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1624.

Karen Creasy

Karen Creasy
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
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JAN 16 2008

Paper No.01162008

HOUSTON ELISEEVA
4 Militia Drive, Suite 4
Lexington, MA 02421

In re Application of	:	
Melzer	:	NOTICE OF WITHDRAWAL
Appl. No. 11'079653	:	FROM ISSUE
Filing Date: March 14, 2005	:	UNDER 37 CFR § 1.313
Atty. Docket No. 0119.0018US1	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Patent and Trademark Office records reveal that the issue fee has been paid. If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account

Telephone inquires related to this decision should be directed to supervisory patent examiner David P. Porta at 571.272.2444.

The above-identified application is being forwarded to the examiner for appropriate action.

Robert Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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FAIRLANE PLAZA SOUTH, SUITE 800
330 TOWN CENTER DRIVE
DEARBORN, MI 48126

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JUL 31 2007

OFFICE OF PETITIONS

In re Application of :
Julian Styles et al :
Application No. 11/079,658 : DECISION ON PETITION
Filed: March 14, 2005 :
Attorney Docket No. 81115793 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 24, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 13, 2005, which required the submission of an executed oath or declaration, a $130 surcharge fee for the late filing of the executed oath or declaration, and an abstract in compliance with 37 CFR 1.72(b). The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 14, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of April 13, 2005 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision on petition.

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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1 4 APR 2010

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

In re Application of	:	
STYLES et al	:	
Application No.: 11/079,658	:	DECISION ON PETITION
Filing Date: 14 March 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 8111793 (JAGP 0101 PUSA)	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 24, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed on September 29, 2009.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above. In particular, the reference does not properly specify the relationship of the international application to the present application. The relationship between the applications is whether the instant application is a continuation, divisional, or continuation-in-part of the prior nonprovisional application. An example of a proper benefit claim is "this application is a continuation of prior Application No. ---, filed ---." A benefit claim that merely states that "this application claims the benefit of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i), since the relationship between the applications is not stated. In addition, a benefit claim that merely states that "this

application is a continuing application of Application No. ---, filed ---" does not comply with 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing (i.e., continuation, divisional, or continuation-in-part) application, is not stated. MPEP 201.11, Section III.A., "Reference to Prior Nonprovisional Applications".

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

By fax: (571) 273-0459
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin
Bryan Lin
Legal Examiner
Office of PCT Legal Administration

In the United States Patent and Trademark Office

Serial Number: 11/079,670

Appn. Filed: 2005, MARCH 14

Applicant(s): BORIS VOLFSON

Appn. Title: SPACE VEHICLE PROPELLED BY THE PRESSURE OF INFLATIONARY VACUUM STATE

Examiner/GAU:

Mailed: 2005, MARCH 14

At: WABASH, IN

Petition is Moot. Case allowed. HPham

Petition to Make Special

Commissioner for Patents
Washington, District of Columbia 20231

Sir:

Applicant hereby respectfully petitions that the above application be made special under MPEP Sec. 708.02 for the following reason; attached is a declaration in support thereof:

- I. ☐ Manufacturer Available;*
- II. ☐ Infringement Exists;*
- III. ☐ Applicant's Health Is Poor;
- IV. ☐ Applicant's Age Is 65 or Greater;
- V. ☐ Environmental Quality Will Be Enhanced;
- VI. ☐ Energy Savings Will Result;
- VII. ☐ Recombinant DNA Is Involved;*
- VIII. ☐ Special Procedure: Search Was Made;*
- IX. ☒ Superconductivity Is Advanced;
- X. ☐ Relates to HIV/AIDS or Cancer;*
- XI. ☐ Counters Terrorism.*

* ☐ Also attached, since reason I, II, VII, VIII, X or XI has been checked, is the $_____ Petition Fee pursuant to Rules 102 and 17(i).

Very respectfully,

Applicant(s): Boris Volfson
(BORIS VOLFSON)

Attachment(s): Fee if indicated and supporting Declaration

Applicant(s): BORIS VOLFSON

c/o: BORIS VOLFSON, APPLICANT
5707 W. MAPLE GROVE RD. APT. 3046
HUNTINGTON IN 46750
Telephone: 260-388-3074

Certificate of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, Washington, DC 20231" on the date below.

Date: 2005 MARCH 14 Boris Volfson, Applicant

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SCHAUMBURG, IL 60196

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In re Application of
Walter L. Johnson, et. al.
Application No. 11/079,676
Filed: March 14, 2005
Attorney Docket No. CE14194R

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 28, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper response to the final Office action mailed November 28, 2007. A Notice of Abandonment was mailed on June 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 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. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2617 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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Billy Lau
486 Vista Del Norte
Walnut, CA 91789-1605

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OFFICE OF PETITIONS

In re Application of	:	
Qinglin Wang, et. al.	:	
Application No. 11/079,687	:	DECISION ON PETITION
Filed: March 12, 2005	:	
Attorney Docket No. OW05-02	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on November 17, 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.

This application was held abandoned for failure to timely respond to the Restriction Requirement mailed March 21, 2006. A Notice of Abandonment was mailed on October 30, 2006.

Petitioner states that a reply was timely sent to the Office on April 20, 2006, but was unfortunately lost in the mail.

A review of the record shows that a response was timely submitted to the Office on April 20, 2006, but the documents contained the wrong application number; and as a result, the response was incorrectly matched to another application.

Under current Office procedure, if a paper contains the incorrect application number, but contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon was sufficient to associate the papers with the above-identified application.

In view of the above, the petition is **GRANTED**. Accordingly, the holding of abandonment for failure to timely file a reply to the Restriction Requirement mailed March 21, 2006, is hereby withdrawn and the application is restored to pending status.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

The $1,500 petition fee paid on November 17, 2006 is unnecessary. Therefore, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

This application file is being referred to Technology Center Art Unit 2883, for consideration of the response filed on April 20, 2006.

Telephone inquiries regarding this decision should be directed to Andrea Smith at (571) 272-3226. Questions concerning the processing of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

Please Scan For The Record

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Walnut, CA 91789-1605

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of
Qinglin Wang, et. al.
Application No. 11/079,687
Filed: March 12, 2005
Attorney Docket No. OW05-02

DECISION ON PETITION

acknowledged
GWH
8/15/07

This is a decision on the petition under 37 CFR 1.137(b), filed on November 17, 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.

This application was held abandoned for failure to timely respond to the Restriction Requirement mailed March 21, 2006. A Notice of Abandonment was mailed on October 30, 2006.

Petitioner states that a reply was timely sent to the Office on April 20, 2006, but was unfortunately lost in the mail.

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Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

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Telephone inquiries regarding this decision should be directed to Andrea Smith at (571) 272-3226. Questions concerning the processing of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

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JACKSON WALKER L.L.P.
112 E. PECAN STREET, SUITE 2100
SAN ANTONIO, TX 78205-1521

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OFFICE OF PETITIONS

In re Application of	:	
Robert Billingsley	:	
Application No. 11/079,705	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 121953.0002.000	:	FROM RECORD
	:	

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 27, 2005.

The request is **APPROVED**.

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

The request was signed by Mark A. Tidwell on behalf of all attorneys of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole inventor Robert Billingsley at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Robert Billingsley
6303 Pleasant Stream
Katy, TX 77449

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ONE GOJO PLAZA
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AKRON OH 44311-1076

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SEP 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Patent Number: 7,503,951	:	
Issue Date: 03/17/2009	:	
Application No. 11/079712	:	ON REQUEST FOR
Filing or 371(c) Date: 03/14/2005	:	RECONSIDERATION OF
Attorney Docket Number: 201990.02026	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d), filed April 27, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1028 days, not 660 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 request for reconsideration patent term adjustment is **DISMISSED**.

On March 17, 2009, the above-identified application matured into U.S. Patent No. 7,503,951 with a patent term adjustment of 660 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment according to the ruling in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert according to Wyeth, the only way the periods of time can overlap is if they occur on the same day. Patentees assert that "[i]f an 'A' delay occurs on one calendar day and a 'B'delay occurs on another, they do not overlap, and § 154(b)(2)(A) does not limit the extension to one day." Patentees maintain that the correct number of days charged against the USPTO under § 1.702(a)(1) and § 1.702(b) is 1028 days.

The 1028-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 14, 2005, and issuing on March 17, 2009, three (3) years and 368 days later. Patentees assert that in addition to this 368-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) totalling 660 days. This 660-day period is the result of a period of delay of 660 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

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

The Office agrees that as of the issuance of the patent on March 17, 2009, the application was pending three years and 368 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 660 days is correct. At issue is whether patentees should accrue 368 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 660 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the 368 days of delay in issuance of the patent overlap with the 660 days of delay attributed to examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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

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

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

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

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

As such, the period for over 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)(1)(A) is the entire period during which the application was pending before the Office, March 14, 2005, to the date the patent issued on March 17, 2009. Prior to the issuance of the patent, 660 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 368 days for Office delay in issuing the patent overlap with the 660 days of Office delay. During that time, the issuance of the patent was delayed by 660 days, not 660 days + 368 days. The Office took 14 months and 660 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 660 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 660 days after its filing date. The Office did not delay 368 days and then an additional 660 days. Accordingly, 660 days of patent term adjustment was properly entered because the period of delay of 368 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 660 days attributable to grounds specified in § 1.702(a).

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

In re Application of	:	
John L. Bala	:	
Application No. 11/079724	:	ON PETITION
Filing Date: 03/14/2005	:	
Attorney Docket Number: BALJL/106/US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 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 March 21, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee, and the submission required by 37 CFR 1.114, previously submitted on May 22, 2008; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 3739 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.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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7/31/08

In re Application of:
Jennings, et al.
Serial No.: 11/079,785
Filed: Mar. 14, 2005
Docket: AM-6569.D1
Title: THERMAL FLUX PROCESSING BY SCANNING A FOCUSED LINE BEAM

DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is a decision on the petition filed Jul. 9, 2008 requesting that claims 17 – 20 be rejoined for consideration on the merits. The petition is being considered pursuant to 37 CFR 1.181 and CFR 1.144 and no fee is required for the petition.

The petition is **GRANTED**.

The record shows that:

1. A Restriction Requirement was issued on Mar. 22, 2006. The Restriction Requirement identified Groups I, II, and III within the application's claims.
2. On Apr. 5, 2006, a Response to Restriction was filed and Group II was elected. The claims corresponding to Groups I and III were also amended, and claim 20 was added.
3. On Jun. 15, 2006, a Non-Final Reject was issued, rejecting the elected claims and withdrawing the non-elected claims and amended claims.
4. On Sep. 18, 2006, an Amendment was filed and claim 8 was amended.
5. In response to Non-Compliant Notification of Dec. 1, 2006, on Dec. 7, 2006, a complaint Amendment was filed and claim 8 was amended.
6. On Mar. 9, 2007, a Final Rejection was issued.
7. On May 14, 2007, Amendment under 37 CFR 1.116 was filed with remarks from the applicant.
8. On May 29, 2007, an Advisory Action was issued. The Advisory Action indicated that the May 14, 2007 Amendment would not be entered.
9. On Jun. 14, 2007, a RCE and an Amendment were filed. Claim 8 was amended and a new claim 21 was added in the Amendment.
10. On Sep. 11, 2007, a Non-Final Rejection was issued.

11. On Feb. 11, 2008, an Amendment was filed. Claims 8 and 21 were amended. Claims 1-7 directed to non-elected Group I invention were canceled. New claims 22 and 23 were added. The claims of this Amendment are the claims that are considered in the present petition.
12. On Jun. 11, 2008, a Final Rejection was issued. Claims 8 – 16 and 21 – 23 were rejected. Claims 17 – 20 were withdrawn from consideration.
13. On July 9, 2008, the present petition was filed. The petition requested the non-elected claims 17 – 20 be rejoined for consideration because these previously non-elected claims are now belong to Group II invention, claims 8-16 and 21-23.

Discussion

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP 802.01. The inventions can be shown to be distinct if both of the following can be shown: that the combination as claimed in claims 8 – 16 and 21 – 23: (A) does not require the particulars of the subcombination as claimed in claims 17 – 20 for patentability and (B) the subcombination as claimed in claims 17 – 20 can be shown to have utility either by itself or in another materially different combination. See MPEP 806.05(c)[1].

The record also reveals that the withdrawal of claims 17 – 20 in the Jun. 11, 2008 Final Rejection failed to explain exactly which limitations, if any, in the subcombination of claims 17 – 20 that the combination of claims 8 – 16 do not require. Moreover, there is no explanation as to why the subcombination of claims 17 – 20 has utility either by itself or in another materially different combination. Without showing such two-way distinctness, the restriction based on the combination and subcombination cannot stand.

In finding the petitioner's points of argument persuasive, the requested relief is granted. The withdrawal of claims 17 – 20 should have been rejoined in the Jun. 11, 2008 Final Rejection. Claims 17 – 20 will be rejoined with the elected invention as claimed in claims 8 – 16 and 21 – 23. The examiner is directed to issue a new Office action to treat claims 17 – 20 on the merits in due course.

Conclusion

Based on the analysis of the record, the restriction requirement promulgated in the Office action dated Mar. 22, 2006 is withdrawn. Non-elected claims 17 – 20 will be examined in a new Office action. The relief requested in the petition is granted.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3742 for further consideration of the previously held non-elected amended claims 17 – 20 in a new Office action. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

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[1] MPEP 806.05(c) [R-5] Criteria of Distinctness Between Combination and Subcombination: To support a requirement for restriction between combination and subcombination inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., there would be a *>serious< search burden >if restriction were not required< as evidenced by separate classification, status, or field of search. See MPEP §808.02. The inventions are distinct if it can be shown that a combination as claimed: (A) does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (B) the subcombination can be shown to have utility either by itself or in another materially different combination. When these factors cannot be shown, such inventions are not distinct.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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OFFICE OF PETITIONS

In re Application of :
Jaroslav HYNECEK :
Application No. 11/079,801 : DECISION ON PETITION
Filed: March 14, 2005 :
Attorney Docket No. ISE118 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 25, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2622 for appropriate action by the Examiner in the normal course of business on the reply received August 26, 2009.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
CUTFORTH
Application No. 11/079,806
Filed: March 14, 2005
Attorney Docket No. P07110US00

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 15, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The evidence submitted with the instant petition is a copy of a driver's license and a declaration signed by Mr. Cutforth indicating 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 Patricia Volpe at 571-272-6825.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
De Jong et al.	:	
Application No. 11/079,807	:	
Patent: 7,017,209	:	
Filed: March 14, 2005	:	NOTICE
Attorney Docket Number: M1269/20025	:	
	:	

This is a notice regarding your request filed on October 10, 2006, for acceptance of a fee deficiency submission under 37 CFR 1.28 (c).

37 CFR 1.28 (c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby accepted.

The change in status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

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.

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 specific to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: GARY A. GREENE
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Paper No. 20070412

Applicant : Heavner et al.
Application No.: 11/079,808
Filed: March 14, 2005

DECISION DISMISSING PETITION UNDER *37 CFR 1.181*

APR 18 2007

This decision is in response to the petition under 37 CFR 1.181 filed August 30, 2006 in the above-identified application. Petitioner requests withdrawal of the Office action mailed July 19, 2006, which examines claims corresponding to a species allegedly not elected by Applicants, and further requests examination of the elected species.

The petition is DISMISSED as moot.

The restriction requirement originally mailed May 19, 2006 is hereby withdrawn. The next Office action will result from an examination of all pending claims.

The application will be forwarded to the Examiner for issuance of a new Office action.

Andrew Hirshfeld
Acting Director, Technology Center 2800

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ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Perry D. Lithgow	: DECISION ON REQUEST FOR
Patent Number	: 7614400	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,822	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1008** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAY 17 2005

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PORTLAND, ME 04112-8707

In re application of Roger G. Caron, Application No. 11/079,823 Filed: March 15, 2005 For: MULTI-DEVICE CONTROLLER FOR MODEL AIRCRAFT	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on March 15, 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 drivers license indicating Mr. Caron is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 04/13/05

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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

Mail Date: 04/20/2010

Applicant	: Alain Robert Emile Carre	: DECISION ON REQUEST FOR
Patent Number	: 7585569	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,835	: OF WYETH
Filed	: 03/11/2005	:
		:

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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Duane Morris LP
IP Department
30 South 17th Street
Philadelphia, PA 19103-4196

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APR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Matthew J. Connors	:	
Application No. 11/079,852	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. H1799-00254	:	FROM RECORD
	:	

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** as moot.

A review of the file record indicates that the power of attorney to Duane Morris LLP has been revoked by the assignee of the patent application on January 22, 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: **Michael Best & Friedrich, LLP**
100 E Wisconsin Avenue
Suite 3300
Milwaukee, WI 53202

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RUBEN ALCOBA, ESQ.
3399 NE 72 AVENUE
SUITE 211
MIAMI, FL 33122

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JUL 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Ignacio J. Calvo	:	
Application No. 11/079,856	:	DECISION ON PETITION
Filed: March 13, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 10043	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 13, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Ignacio J. Calvo 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 3733 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MICHAEL J. URBANO
1445 PRINCETON DRIVE
BETHLEHEM, PA 18017-9166

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MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Matthew Douglas Apau Jachowski :
et al : DECISION ON PETITION
Application No. 11/079,861 :
Filed: March 14, 2005 :
Attorney Docket No. 1-9-22 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 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 December 26, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 25, 2006. Accordingly, the date of abandonment of this application is December 27, 2006. A Notice of Abandonment was mailed on January 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of :
VOLLRATH, et al. :
Application No. 11/079,884 :
Filed: March 15, 2005 :
Attorney Docket No. **543822012800** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 9, 2007.

The request is **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 associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed September 26, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JORG VOLLRATH**
FEURSSTRASSE 14B
OLCHING, GERMANY 81240

cc: **GERO G. MCCLELLAN**
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

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8TH FLOOR
NEW YORK NY 10016-0601

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of	:	
Whitehead, et al.	:	
Application No. 11/079,896	:	DECISION GRANTING
Deposited: March 14, 2005	:	PETITION
Attorney Docket No. 2631-025	:	
For: HIGH VALUE LAMINATED	:	
UPHOLSTERY FABRICS	:	

This is a decision on the petitions, filed May 25, 2006, requesting in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed March 16, 2006, and accordation of a March 14, 2005filing date to the above-identified application. The petition will be treated under 37 CFR 1.53(e) and under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **GRANTED**.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was deposited on March 14, 2005. On March 16, 2006, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on March 14, 2005 because no drawing was present, as is required by 35 U.S.C. 113. It is noted that the specification filed on March 14, 2005 describes drawing figures. In response to the Notice, petitioners filed the present petition.

Since petitioners filed the present petition beyond the two month period for reply, as set in the March 16, 2006 Notice, a petition under 37 CFR 1.182 is required. A petition under 37 CFR 1.137(b) is not applicable in this instance, because a filing date has not yet been accorded to the application. Petitioners have explained that the delay in responding to the March 16, 2006 Notice was unintentional. A $400.00 petition fee will be retained. Deposit account no. 07-1730 will be refunded $1,100.00 ($1,500.00 - $400.00). The petition under 37 CFR 1.182 to excuse the late response to the March 16, 2006 Notice is **granted**.

It is noted that the above-identified application concerns woven fabrics that are laminated to lightweight spunbonded and carded thermally bonded nonwovens.

MPEP 601.01(f) provides:

> [S]ituations in which drawings are usually not considered necessary for the understanding of the invention under 35 U.S.C. 113 (first sentence) are:
>
> (A) Coated articles or products...
> (B) Articles made from a particular material or composition...
> (C) Laminated structures...
> (D) Articles, apparatus, or systems where sole distinguishing feature is presence of a particular material....

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

The above-identified application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date.

In view of the above, the "Notice" mailed was mailed in error and is hereby withdrawn. The petition is **granted**. The $400.00 petition fee will be credited to deposit account no. 07-1730.

Regarding the drawings submitted with the instant petition, petitioners do not assert that they were deposited in the PTO on March 14, 2005. Either the drawings were present in the Office on the filing date of the application or they were not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. The drawings submitted with the instant petition will not be processed as part of the application papers because petitioners have not shown that they were filed on March 14, 2005.

If applicants desire that the drawing figures be added to the application, the appropriate procedure is by way of amendment requesting entry of the figures. Any such amendment should be filed prior to the first action on the merits and the examiner will consider the figures for new matter. See MPEP § 608.02.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **March 14, 2005**. The application is entitled to a filing date of March 14, 2005 without drawing figures.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Whitehead, et al. :
Application No. 11/079,896 :
Filed: March 14, 2005 :
Attorney Docket No.2631-025 :
For: HIGH VALUE LAMINATED
UPHOLSTERY FABRICS

This is a decision on the petition under 37 CFR 1.137(b), filed on May 25, 2006, to revive the above-identified application.

As stated in the decision on petition mailed September 25, 2006, a petition to revive is not necessary in this application.

The petition under 37 CFR 1.137(b) is **dismissed as moot.**

Financial issues were addressed in the September 25, 2006 decision on petition.

After the mailing of this decision the application will be returned to the Office of Initial Patent Examination for further processing. Afterwards, it will be forwarded to Technology Center A.U. 1771 for examination in due course.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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APR 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Kambiz Kohani	:	DECISION ON PETITION
Application No. 11/079,897	:	TO WITHDRAW HOLDING
Filed: 14 March, 2005	:	OF ABANDONMENT
For: DENTIAL BRACKETING SYSTEM	:	
AND METHOD	:	

This is a decision on the "REQUEST FOR WITHDRAWAL OF ABANDONMENT" filed on 29 January, 2007, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action 13 June, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed 22 January, 2007.

Petitioners assert that a proper response was timely filed. In support of the petition, petitioner submits a copy of a postcard receipt date-stamped by the USPTO with a date of 13 November, 2006, acknowledging receipt of an amendment, request for extension of time, and a check for $225.00. The postcard identifies the application by first named applicant's last name, attorney docket number, and invention title.

It is noted that the postcard miscaptions the application number as "11/079,**98**7". Upon a review of the Official file, the reply, which also miscaptions the application number as above, filed on 13 November, 2006, has been located in the file of Application No. 11/079,987.

In view of the above, there was sufficient identifying information to match the papers filed on 13 November, 2006, with the proper application file.

Accordingly, it is concluded that the response was timely filed in the Office but was not matched with the proper application file.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be forwarded to Technology Center Art Unit 3732 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: Klaus M. Hahn	: DECISION ON REQUEST FOR
Patent Number	: 7592188	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **124** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/17/2010

Applicant : Klaus M. Hahn
Patent Number : 7592188
Issue Date : 09/22/2009
Application No : 11/079,907
Filed : 03/14/2005

: 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 **140** 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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MAR 18 2010

OFFICE OF PETITIONS

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

In re Application of
Mar A. Bay
Application No. 11/079,914
Filed: March 14, 2005
Attorney Docket No. 192001-0002

ON PETITION

This is a decision in response to the petition, filed December 11, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 2, 2009, 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 July 3, 2009. A Notice of Abandonment was mailed on October 13, 2009. On December 11, 2009, 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 amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3765 for appropriate action by the Examiner in the normal course of business on the amendment received December 11, 2009.

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 it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of	:	
Alfred L. CHI	:	
Application No. 11/079,916	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 11602-002003	:	FROM RECORD
	:	

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 24, 2005, and resubmitted on December 5, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David L. Feigenbaum on behalf of all other attorneys of record. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

The instant application is being referred to Technology Center 3600 for examination in due course.

Telephone inquiries concerning this decision should be directed to BethAnne Dayoan at 571-272-3209.

BethAnne Dayoan
Petitions Examiner
Office of Petitions

cc: Alfred L. Chi
2 Eli Whitney Street
Westborough, MA 01581

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P.O. BOX 2550
SALT LAKE CITY, UT 84110

Mail Date: 04/20/2010

Applicant	: Michael T. Rose	: DECISION ON REQUEST FOR
Patent Number	: 7603951	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/079,925	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **927** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STERNE, KESSLER, GOLDSTEIN & FOX, P.L.L.C.
1100 NEW YORK AVE., N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application
Holly Prentice
Application No. 11/079,933
Filed: March 15, 2005
Attorney Docket No.
2159.0310001/EKS/D-S

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the Request for Reconsideration and Application for Patent Term Adjustment Pursuant to 37 C.F.R. § 1.705(b) filed June 5, 2009. Applicant requests that the determination of patent term adjustment be corrected from forty-one (41) days to sixty (60) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being held in abeyance until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b). This is true even in this instance where a request for continued examination (RCE) was filed.

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent

term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office will charge petitioner's deposit account no. 19-0036 in the amount of $200.00 as set forth in 37 CFR 1.18(e), per the authorization noted in the petition. 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

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OFFICE OF PETITIONS

In re Patent No. 7,569,362
Issued: August 4, 2009
Application No. 11/079,933
Filed: March 15, 2005
Attorney Docket No.
2159.0310001/EKS/D-S

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This is a decision on the Request for Reconsideration of Patent Term Adjustment Determination Pursuant to 37 C.ER. § 1.705(d) filed on October 2, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 41 days to 60 days.

The request for review of the patent term adjustment is **DISMISSED.**

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 15, 2008 and ends on April 2, 2008, the day before the RCE was filed, the B delay would be 18 (not 19) days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee fails to account for the filing of a Notice of Appeal on February 4, 2008, and the subsequent filing of a RCE on April 2, 2008. The 18 days of the over three year period therefore would be consumed by appellate review, beginning on February 4, 2008 and ending on April 2, 2008. The time for appellate review is excluded (18 – 58); thus 0 additional days for B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 41 (74 "A delay days" + 0 "B delay days" (18-58) - 33 Applicant delay days) days, not 60 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 19-0036.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

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Morris McLaughlin & Marcus, PA
18th Floor
875 Third Avenue
New York, NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Kaiser, et al.	:	
Application No.: 11/079,934	:	ON PETITION
Filed: March 14, 2005	:	
Attorney Docket No. 100717-682-WCG	:	

This is in response to the petition under 37 CFR 1.137(b) filed April 27, 2006.

The petition under 37 CFR 1.137(b) is **granted**.

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on April 14, 2005, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required a surcharge for the late payment of the filing fee, and payment of the filing fee, search fee, examination fee, and claim fee. A complete response was not received within the allowable period, and the application became abandoned on June 15, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The required fee were received on April 27, 2006.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/079,940	03/14/2005	1723	3930	CV0295USC1	24	48	10

CONFIRMATION NO. 4505

UPDATED FILING RECEIPT

OC000000017304853

009561
POPOVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

Date Mailed: 10/21/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

David W. Skinkle, Denver, CO;
Stephen W. Berch, Arvada, CO;
Beth Erin Hunter, Arvada, CO;
Craig James, Arvada, CO;
Rainer Koenig, Denver, CO;
Daniel McGinnis, Lakewood, CO;
Michael Schwab, Golden, CO;

Power of Attorney: The patent practitioners associated with Customer Number **009561**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/659,855 09/11/2003

Foreign Applications

If Required, Foreign Filing License Granted: 04/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/079,940

Projected Publication Date: 02/02/2006

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus for separating blood components

Preliminary Class

210

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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SUITE 600
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:
David W. Skinkle et al	:DECISION GRANTING FILING
Application No. 11/079,940	:DATE OF March 14, 2005
Filed: March 14, 2005	:
Attorney Docket No. CV0295USC1	:

This is a decision on the petition filed October 11, 2005, requesting that the above-identified application be accorded a filing date of March 14, 2005, rather than the filing date of March 15, 2005.

Petitioner 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 March 14, 2005, pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of the Express Mail label No. EV626313648US and a USPS Track & Confirm showing the acceptance date of March 14, 2005, in Saint Paul Mn. The same Express Mail receipt number appears on the original "Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on March 14, 2005.

The petition is **granted**.

A corrected Filing Receipt was mailed on October 21, 2005, showing the filing date as March 14, 2005.

The petition fee of $130 will be credited to deposit account no. 16-2312 as authorized.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

This matter is being referred to Technology Center AU 1723 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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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
11/079,977	03/11/2005	1614	1000	CHR 01-76CIP II Div	9	16	1

CONFIRMATION NO. 3033

CORRECTED FILING RECEIPT

OC000000015852260

Terry B. McDaniel
MeadWestvaco Corporation
3950 Faber Place Drive
P.O. Box 118005
Charleston, SC 29423-8005

Date Mailed: 04/28/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Frederick Stanley Baker, Wando, SC;

Assignment For Published Patent Application

MeadWestvaco Corporation

Power of Attorney: The patent practitioners associated with Customer Number **36876**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/736,652 12/16/2003
which is a CIP of 10/144,201 05/10/2002 PAT 6,706,194
which is a CIP of 10/141,158 05/08/2002 PAT 6,699,393

Foreign Applications

If Required, Foreign Filing License Granted: 04/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/079,977

Projected Publication Date: 08/04/2005

Non-Publication Request: No

Early Publication Request: No

Title

Catalytic activated carbon for removal of chloramines from water

Preliminary Class

514

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Thomas E. Anderson
Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski. P.C.
P.O. Box 7021
Troy, MI 48007-7021

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OFFICE OF PETITIONS

In re Application of	:	
Wen Li, et. al.	:	
Application No. 11/079,988	:	ON PETITION
Filed: March 15, 2005	:	
Attorney Docket No. TTC-15302/08	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application mailed April 13, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. A four (4) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned after midnight October 13, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Oath/Declaration along with the surcharge of $130; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

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JUN 28 2006
OFFICE OF PETITIONS

In re Application of :
Marko Tuhkela :
Application No. 11/079,989 : ON PETITION
Filed: February 25, 2005 :
Attorney Docket No.: 915-005.152 :

This is a decision on the petition, filed June 27, 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 16, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2832 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-3-08

TO SPE OF : ART UNIT 2877

SUBJECT : Request for Certificate of Correction on Patent No.: 7292331

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Approved.

/Gregory J. Toatley, Jr./ 2877

SPE Art Unit

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AFTON CHEMICAL CORPORATION
LUEDEKA, NEELY & GRAHAM, PC
P.O. BOX 1871
KNOXVILLE, TN 37901

Mail Date: 04/21/2010

Applicant	: Carl K. Esche JR.	: DECISION ON REQUEST FOR
Patent Number	: 7615520	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,007	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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LAWRENCE BERKELEY NATIONAL LABORATORY
ONE CYCLOTRON ROAD, MAIL STOP 90B
UNIVERSITY OF CALIFORNIA
BERKELEY, CA 94720

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of
John Cumings et al.
Application No. 11/080,010
Filed: March 14, 2005
Attorney Docket No. IB-1649A

Decision on Petition

This is a decision on the petition filed July 8, 2005, to accord the above-identified application a filing date of March 14, 2005.

The application was filed on March 14, 2005. On May 11, 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 4 sheets of drawings were deposited on March 14, 2005. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 4 sheets of drawings on March 14, 2005.[1]

Upon review of the record, the drawings deposited on March 14, 2005, have not been located. However, the evidence is convincing that the application papers deposited on March 14, 2005, included 4 sheets of drawings, and that the drawings were subsequently misplaced in the PTO. Therefore, the application is complete and entitled to a filing date of March 14, 2005.

In view of the above, the petition is **granted**. The copy of the 4 sheets of drawings submitted with the petition will be used for examination purposes.

The petition fee of $400 will be credited back to petitioner's deposit account.

The Notice mailed May 11, 2005, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will accord the application a filing date of March 14, 2005, using the papers filed on March 14, 2005, and the 4 sheets of drawings filed July 8, 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080728

DATE : August 02, 2007

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction on Patent No.: 7,236,759

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:

The requested corrections are for typographical & grammar errors. Therefore, they are approved for correction to US Patent 7,236,759 B2. Charles Chow

SPE: /Edward Urban/ Art Unit 2618

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Arnold & Porter LLP (24126)
Attn: IP Docketing Dept.
555 Twelfth Street, N.W.
Washington, DC 20004-1206

Mail Date: 04/21/2010

Applicant	: Luc Desnoyers	: DECISION ON REQUEST FOR
Patent Number	: 7619062	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **641** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
555 South Flower Street
SUITE 3500
LOS ANGELES, CA 90071-2411

Mail Date: 04/21/2010

Applicant	: Scott R. Gibson	: DECISION ON REQUEST FOR
Patent Number	: 7628776	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,088	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1303** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: David Jones	: DECISION ON REQUEST FOR
Patent Number	: 7609757	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,100	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1124** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : David Jones
Patent Number : 7609757
Issue Date : 10/27/2009
Application No : 11/080,100
Filed : 03/15/2005

: 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 **1158** 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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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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In re Application of	:	
Csaba TRUCKAI, et al	:	
Application No. 11/080,101	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 021447-002110US	:	FROM RECORD
	:	

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 5, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by James M. Heslin on behalf of all the attorneys of record associated with Customer No. 20350.

The attorneys of record associated with Customer No. 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence 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 assignee at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SURGRX, INC.
380 PORTAGE AVENUE
PALO ALTO, CA 94306

cc: PHILIPS S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

In re Application of	:	
Csaba Truckai, et al.	:	
Application No. 11/080,101	:	ON PETITION
Filed: March 14, 2005	:	
Attorney Docket No. END6511USNP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 15, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) 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 June 16, 2009. The Notice of Abandonment was mailed August 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 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 3739 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Heller, Ehrman, LLP
4350 La Jolla Village Drive, 7th Floor
San Diego, CA 92122

In re Application of	:	
Michelle Arkin et al.	:	
Application No. 11/080,102	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 39750-0030.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 14, 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 Sam L. Nguyen and all attorneys/agents of record has been revoked by the assignee of the patent application on June 7, 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: JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Scheffelin, et al.	:	
Application No. 11/080,115	:	DECISION GRANTING
Filed: March 14, 2005	:	PETITION
Attorney Docket No. 2000407504-1	:	
For: IMPROVED PLUG	:	

This is a decision on the petition under 37 CFR 1.53(e), filed June 29, 2005 (certificate of mailing date June 27, 2005), requesting that the above-identified application be accorded a filing date of March 14, 2005.

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.

The application was deposited on March 14, 2005. On May 5, 2005, the Office of Initial Patent Examination mailed a Notice informing applicants that no filing date had been accorded to the application papers deposited on March 14, 2005 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of March 14, 2005 on the basis that 1 sheet of drawing figures was received in the Patent and Trademark Office (PTO) on March 14, 2005. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 14, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 1 pages of drawings [sic].

The return postcard constitutes *prima facie* evidence that 1 page of drawings was filed on March 14, 2005. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, deposit account no. 08-2025 will be credited the $400.00 petition fee submitted on June 29, 2005 (certificate of mailing date June 27, 2005).

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 14, 2005**, using the copy of the 1 page of drawings submitted with the instant petition. Office records will be corrected to show that 1 page of drawings was present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P O BOX 272400
MAIL STOP 35
FORT COLLINS CO 80527-2400

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HOWREY, LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE
SUITE 200
FALLS CHURCH, VA 22042

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OFFICE OF PETITIONS

In re Application of	:	
Bo Wu	:	
Application No. 11/080,117	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. 03357.0006.NPUS00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Viola T. Kung on behalf of all attorneys/agents associated with customer number 27194. All attorneys/agents associated with customer number 27194 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 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.

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bo Wu
1657 Willow Lake Lane
San Jose, CA 95131

cc: J. James Li
Greenberg Traurig
1900 University Avenue
East Palo Alto, CA 94303

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/080,117	03/15/2005	Bo Wu	

CONFIRMATION NO. 4822

POWER OF ATTORNEY NOTICE

27194
HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

OC000000028344782

Date Mailed: 02/15/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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OFFICE OF PETITIONS

Tammy Honchel
916 Springwood Court
Lexington KY 40515

In re Application of HONCHEL, TAMMY J. Application No. 11/080,139 Filed: March 15, 2005 Attorney Docket No. Tam-003	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional petition fee is necessary.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 13, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 14, 2008. The Office mailed a Notice of Abandonment on February 5, 2009.

The provisions of 37 CFR 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 pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 CFR 1.17(m); and,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The present petition does not satisfy requirement (1) and (3) above.

As to item (1), the reply to the Restriction Requirement as drafted is unacceptable because it is physically part of the petition As provided in 37 CFR 1.4(c), matters that are to be considered by different branches or sections of the USPTO must be contained in separate papers. Therefore, on renewed petition, petitioner must submit the reply as a separate paper from the petition under 37 CFR 1.137(b). See 37 CFR 1.4(c) and 1.33(b).

As to item (3), an applicant filing a petition under 37 CFR 1.137(b) to revive an abandoned application must include the statement "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" in compliance with 37 CFR 1.137(b)(3), even if applicant chooses to include a statement of the facts concerning the delay.

The Office acknowledges the revocation of power of attorney and appointment of new power of attorney associated with Customer No. 26974. The appointment has been made of record. It is noted that applicant did not submit a request to change the correspondence address to the address associated with Customer No. 26974. Accordingly, all correspondence will continue to be mailed 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 FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted electronically via EFS-Web.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

MAILED

JUL 21 2009

OFFICE OF PETITIONS

In re Application of :
Eckhardt et al. : ON APPLICATION FOR
Application No. 11/080,150 : PATENT TERM ADJUSTMENT
Filed: March 15, 2005 :
Attorney Docket No. 01-1659 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed June 9, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is two hundred thirty-five (235) days, not two hundred six (206) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As

such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Matthias Eckhardt et al. | Examiner: OLSON, ERIC

Serial No.: 11/080,150 | Group Art Unit: 1623

Filed: 15 March 2005 | Confirmation No. 2342

Title: GLUCOPYRANOSYL-SUBSTITUTED PHENYL DERIVATIVES, MEDICAMENTS CONTAINING SUCH COMPOUNDS, THEIR USE AND PROCESS FOR THEIR MANUFACTURE

Docket No.: 01-1659

Date: June 9, 2009

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request for reconsideration of the patent term adjustment indicated in the notice of allowance mailed on 23 April 2009, and is being filed as an application for patent term adjustment pursuant to 37 C.F.R. § 1.705(b). The PTA calculated by the USPTO was 206 days; applicants submit that the PTA should be 235 as detailed below. This request is being filed concurrent with or prior to the payment of the issue fee, and therefore this request is timely filed under 37 C.F.R. § 1.705(b).

Pursuant to 37 C.F.R. § 1.705(b)(1) the required fee of $200.00 set forth in 37 C.F.R. § 1.18(e) is being paid herewith, via the USPTO's electronic filing system (by authorization to charge such fee to Applicant's Deposit Account No. 02-2955).

Pursuant to 37 C.F.R. § 1.705(b)(2)(i), below is an indication of the correct patent term adjustment and the basis or bases under § 1.702 for the adjustment:

Correct Patent Term Adjustment (PTA) = 235 days

Bases for the above PTA

(A) 302 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1);

plus

(B) 29 days under 37 C.F.R. §§ 1.702(b) and 1.703(b);

minus

(C) 89 days under 37 C.F.R. § 1.704(b);

minus

(D) 7 days under 37 C.F.R. § 1.704(c)(8).

Total PTA = (A) 302 days + (B) 29 days - (C) 89 days - (D) 7 days = 235 days

Pursuant to 37 C.F.R. § 1.705(b)(2)(ii), below is an indication of the relevant dates specified in 37 C.F.R. § 1.703(a) through (e) for which an adjustment is sought and the adjustment as specified in 37 C.F.R. § 1.703 (f) to which the patent is entitled:

(A) 302 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1)

The 302 days under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1) is calculated based on the following dates:

(1) The day *after* the date that is 14 months after the date on which the application was filed under 35 U.S.C. 111(a) = 16 May 2006

(2) The date of mailing of the first action under 35 U.S.C. 132 = 13 March 2007

(3) The number of days beginning on 16 May 2006 and ending on 13 March 2007 = 302 days

(B) 29 days under 37 C.F.R. §§ 1.702(b) and 1.703(b)

The 29 days under 37 C.F.R. §§ 1.702(b) and 1.703(b) is calculated based on the following dates:

(1) The day *after* the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) = 16 March 2008

(2) The date a Request for Continued Examination was filed = 14 April 2008

(3) The number of days beginning on 16 March 2008 and ending on 13 April 2008 = 29 days

The PTA specified in 37 C.F.R. § 1.703(f) to which the patent is entitled

As specified in 37 C.F.R. § 1.703(f), the term of a patent entitled to adjustment under §§ 1.702 and 1.703 shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of § 1.703, to the extent such periods are not overlapping, less the sum of the periods calculated under § 1.704.

For the instant application the sum of the periods under paragraphs (a) through (e) of § 1.703 is 331 days, calculated as follows:

(A) 302 days delay under 37 C.F.R. §§ 1.702(a)(1) and 1.703(a)(1);

plus

(B) 29 days delay under 37 C.F.R. §§ 1.702(b) and 1.703(b).

The two periods of delay specified above are not overlapping, since the first period of delay under 37 C.F.R. §1.703(a)(1) ended on 13 March 2007 (when the first office action was mailed) and the second period of delay under 37 C.F.R. §1.703(b) did not start until 16 March 2008 (the day *after* the date that is 3 years after the date on which the application was filed). Thus, there were no days falling within both periods of delay and therefore no overlap (see Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C. 2008)).

For the instant application the sum of the periods calculated under 37 C.F.R. § 1.704 is 96 days, as follows:

(C) 89 days under 37 C.F.R. § 1.704(b). An Office Action was issued on 11 May 2007, to which a response was not filed until 8 November 2007 which was 89 days beyond the 3 month period specified in § 1.704(b) - thus, an 89 day reduction.

(D) 7 total days under 37 C.F.R. § 1.704(c)(8). After the response was filed on 8 November 2007, an Information Disclosure Statement was filed on 15 November 2007, leading to a reduction under 37 C.F.R. § 1.704(c)(8) amounting to 7 days,

for a total of 96 days reduction.

Therefore, the PTA specified in 37 C.F.R. § 1.703(f) to which the patent is entitled is 235 days, calculated as follows:

331 days (the sum of the periods under paragraphs (a) through (e) of § 1.703)
minus
96 days (the sum of the periods calculated under § 1.704)
= 235 days

With respect to 37 C.F.R. § 1.705(b)(2)(iii), the resulting patent issued on the instant application will not be subject to a terminal disclaimer since no such disclaimer was filed.

With respect to 37 C.F.R. § 1.705(b)(2)(iv), there were circumstances during prosecution of the instant application constituting failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704. These circumstances are as outlined above under (C) and (D) resulting in the following PTA reductions: 89 days under 37 C.F.R. § 1.704(b) [for response filed 8 November 2007] and 7 total days under 37 C.F.R. § 1.704(c)(8) [for papers filed 15 November 2007], for a total of PTA reduction of 96 days.

Accordingly, Applicants respectfully request that the PTA specified in the notice of allowance (stated therein to be 206 days) be corrected to 235 days for the reasons as outlined above.

The Commissioner is hereby authorized to charge any additional fees associated with this response or credit any overpayment to Deposit Account No. 02-2955.

Respectfully submitted,

/Edouard G. Lebel/
Edouard G. Lebel, Ph.D.
Agent for Applicant(s)
Reg. No. 43,742

Patent Department
Boehringer Ingelheim Corp.
900 Ridgebury Road
P.O. Box 368
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Tel.: (203) 778-7635
Fax.: (203) 798-4408

Dated: June 9, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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SEP 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,579,449	
Eckhardt et al.	
Issue Date: August 25, 2009	
Application No. 11/080,150	DECISION ON REQUEST FOR
Filed: March 15, 2005	RECONSIDERATION OF
Attorney Dkt. No. 01-1659	PATENT TERM ADJUSTMENT
Title: GLUCOPYRANOSYL-	
SUBSTITUTED PHENYL DERIVATIVES,	
MEDICAMENTS CONTAINING SUCH	
COMPOUNDS, THEIR USE AND	
PROCESS FOR THEIR MANUFACTURE	

This is a decision on the " APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed September 4, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred six (206) days to two hundred thirty-five (235) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 25, 2009, the above-identified application matured into US Patent No. 7,579,449 with a patent term adjustment of 206 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

Patentees assert entitlement to a patent term adjustment of 235 days (302 + 29 reduced by 96 (applicant delay)).

The Office finds that an RCE was filed 3 years and 30 days (March 16, 2008 - April 14, 2008) after the filing date of this

application. The Office agrees that certain actions were not taken within the specified time frames, and thus, the entry of a period of adjustment of 302 days for Office delay is proper. At issue is whether Patentees should accrue 30 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 302 days for Office failure to take certain actions within a specified time frame (or examination delay).

The Office contends that the entire 30-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay

> overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 15, 2005 to April 14, 2008 (the date on which the RCE was filed). 302 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within specified time frames during the pendency of the application. All of the 30 days for Office delay in issuing the patent overlap with the 302 days of Office delay.

The 30 days attributed to the delay in the issuance of the patent overlaps with the adjustment of 302 days attributable to the grounds specified in 37 C.F.R. § 1.702(a)(1). Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Olesia Brown f/

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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RIDGEFIELD, CT 06877-0368

Mail Date: 04/20/2010

Applicant	: Matthias Eckhardt	: DECISION ON REQUEST FOR
Patent Number	: 7579449	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,150	: OF WYETH
Filed	: 03/15/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Michael P. Morris
Boehringer Ingelheim USA
900 Ridgebury Road
PO Box 368
Ridgefield CT 06877-0368

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,579,449	:
Eckhardt et al.	: DECISION UPON REMAND AND
Issue Date: August 25, 2009	: RECONSIDERATION OF
Application No. 11/080,150	: PATENT TERM ADJUSTMENT
Filed: March 15, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 01-1659	: TO ISSUE CERTIFICATE OF
Title: Glucopyranosyl-	: CORRECTION
Substituted Phenyl Derivatives,	:
Medicaments Containing Such	
Compounds, Their Use and	
Process For Their Manufacture	

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 two hundred thirty-five (235) 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 two hundred thirty-five (235) 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 : 7,579,449 B2

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : EckHardt 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 206 days

Delete the phrase "by 206 days" and insert – by 235 days--

Day : Thursday
Date: 6/17/2010

PALM INTRANET

Time: 08:18:34

PTA Calculations for Application: 11/080150			
Application Filing Date:	03/15/2005	PTO Delay (PTO):	302
Issue Date of Patent:	08/25/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	96
Post-Issue Petitions:	0	Total PTA (days):	235
PTO Delay Adjustment:	29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
154	06/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	29		
138.5	08/05/2009	PTA 36 MONTHS			
138	08/25/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
137	07/24/2009	EXPORT TO FINAL DATA CAPTURE			
136	07/23/2009	DISPATCH TO FDC			
135	07/23/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
134	07/23/2009	TC RETURN TO PUBS			
133	07/23/2009	EMAIL NOTIFICATION			
132	07/21/2009	MAIL-PETITION DECISION - DISMISSED			
131	07/20/2009	PETITION DECISION - DISMISSED			
130	06/09/2009	ISSUE FEE PAYMENT VERIFIED			
129	06/09/2009	PETITION ENTERED			
128	06/09/2009	ISSUE FEE PAYMENT RECEIVED			
125	04/27/2009	EXPORT TO INITIAL DATA CAPTURE			
124	04/23/2009	MAIL NOTICE OF ALLOWANCE			
123	04/23/2009	ISSUE REVISION COMPLETED			
122	04/23/2009	DOCUMENT VERIFICATION			
121	04/23/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
120	04/23/2009	NOTICE OF ALLOWABILITY			
119	02/11/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
118	04/08/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
116	04/08/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

115	02/26/2009	PRELIMINARY AMENDMENT			
114	02/11/2009	REFERENCE CAPTURE ON IDS			
113	02/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
112	02/24/2009	DATE FORWARDED TO EXAMINER			
111	02/11/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
110	02/24/2009	DISPOSAL FOR A RCE / CPA / R129			
109	02/11/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
108	02/11/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
107	11/21/2008	EXPORT TO INITIAL DATA CAPTURE			
106	05/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
105	11/17/2008	MAIL NOTICE OF ALLOWANCE			
104	11/17/2008	ISSUE REVISION COMPLETED			
103	11/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
102	11/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
101	11/13/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
100	11/13/2008	DOCUMENT VERIFICATION			
99	11/10/2008	NOTICE OF ALLOWABILITY			
98	10/02/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	09/10/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
95	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	10/02/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	09/10/2008	REFERENCE CAPTURE ON IDS			
92	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
91	09/15/2008	DATE FORWARDED TO EXAMINER			
90	09/10/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
89	09/15/2008	DISPOSAL FOR A RCE / CPA / R129			
88	09/10/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
87	09/10/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			

86	06/24/2008	REFERENCE CAPTURE ON IDS			
85	06/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
84	07/25/2008	FINISHED INITIAL DATA CAPTURE			
83	07/15/2008	EXPORT TO INITIAL DATA CAPTURE			
82	07/10/2008	MAIL NOTICE OF ALLOWANCE			
81	07/09/2008	ISSUE REVISION COMPLETED			
80	06/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
79	06/26/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
78	06/26/2008	DOCUMENT VERIFICATION			
77	06/26/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	06/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
75	06/23/2008	NOTICE OF ALLOWABILITY			
72	05/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
71	04/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
70	06/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
69	05/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
68	04/14/2008	REFERENCE CAPTURE ON IDS			
67	04/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
66	04/19/2008	DATE FORWARDED TO EXAMINER			
65	04/14/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
64	04/19/2008	DATE FORWARDED TO EXAMINER			
63	04/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
62	04/19/2008	DISPOSAL FOR A RCE / CPA / R129			
61	04/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
60	04/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
59	02/14/2008	PUBS CASE REMAND TO TC			
58	02/19/2008	WORKFLOW - QUERY REQUEST - BEGIN			
57	02/19/2008	TC RETURN TO PUBS			

56	11/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		7	36
55	01/21/2008	EXPORT TO INITIAL DATA CAPTURE			
54	01/16/2008	MAIL NOTICE OF ALLOWANCE			
53	01/16/2008	MAIL EXAMINER'S AMENDMENT			
52	01/15/2008	DOCUMENT VERIFICATION			
51	01/15/2008	ISSUE REVISION COMPLETED			
50	01/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	01/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
48	01/15/2008	EXAMINER'S AMENDMENT COMMUNICATION			
47	01/15/2008	NOTICE OF ALLOWABILITY			
45	11/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	11/08/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
40	11/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	11/08/2007	REFERENCE CAPTURE ON IDS			
38	11/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	11/24/2007	DATE FORWARDED TO EXAMINER			
36	11/08/2007	RESPONSE AFTER NON-FINAL ACTION		89	33
35	11/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
34	11/08/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
33	05/11/2007	MAIL NON-FINAL REJECTION			
32	05/10/2007	NON-FINAL REJECTION			
31	04/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	04/04/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	11/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	10/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	04/12/2007	REFERENCE CAPTURE ON IDS			
26.7	04/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	24
		INFORMATION DISCLOSURE STATEMENT (IDS)			

26	04/12/2007	FILED			
25	04/13/2007	DATE FORWARDED TO EXAMINER			
24	04/12/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
23	03/13/2007	MAIL RESTRICTION REQUIREMENT	302		-1
22	03/09/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
21	02/22/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	11/15/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	04/04/2006	REFERENCE CAPTURE ON IDS			
18.7	04/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	04/04/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	11/25/2005	REFERENCE CAPTURE ON IDS			
16.7	11/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/28/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14	10/31/2005	REFERENCE CAPTURE ON IDS			
13.7	10/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	10/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	05/27/2005	MISCELLANEOUS INCOMING LETTER			
11	03/15/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9	05/16/2005	APPLICATION DISPATCHED FROM OIPE			
8	05/16/2005	APPLICATION IS NOW COMPLETE			
7	05/05/2005	ADDITIONAL APPLICATION FILING FEES			
6	05/05/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
3	04/07/2005	CLEARED BY OIPE CSR			
2	03/29/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/15/2005	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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Howrey LLP
c/o IP Docketing Department
2941 Fairview Park Drive, Suite 200
Falls Church, VA 22042-2924

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OFFICE OF PETITIONS

In re Application of	:	
Bo Wu	:	
Application No. 11/080,162	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. 03357.0004.NPUS00	:	FROM RECORD
	:	

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 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Viola T. Kung, Ph.D 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
Petitions Examiner
Office of Petitions

cc: **Bo Wu**
1657 Willow Lake Lane
San Jose, CA 95131

cc: **J. James Li**
Greenberg Traurig
1900 University Avenue
East Palo Alto, CA 94303

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/080,162	03/15/2005	Bo Wu	03357.0004.NPUS00

CONFIRMATION NO. 4454

POWER OF ATTORNEY NOTICE

27194
HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

OC000000030082995

Date Mailed: 05/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

In re Application of	:	
Wang, et al.	:	
Application No. 11/080,198	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 022001-000868US	:	FROM RECORD
	:	

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, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on June 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: FRANK NGUYEN
PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/080,209	03/14/2005	John R. Moffatt	200403746-1	2694

22879 7590 07/16/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
KLEMANSKI, HELENE G

ART UNIT	PAPER NUMBER
1793	

NOTIFICATION DATE	DELIVERY MODE
07/16/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF DATA MANAGEMENT

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of	:	
MOFFATT, JOHN R. et al.,	:	**DECISION ON PETITION**
Application No. 11/080, 209	:	
Filed: March 14, 2005	:	
Attorney Docket No. 200403746-1	:	

This is a decision on the Petition To Withdraw Holding of Abandonment (CFR 1.181), received in the United States Patent and Trademark Office (USPTO) on July 10, 2008.

The petition is **DISMISSED.** Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee as required in the Notice Of Allowance and Fee(s) Due, mailed February 8, 2008, which set a three (3) month statutory period for reply. A Notice of Abandonment was mailed June 4, 2008.

The Office acknowledges the timely receipt of Part B – Fee(s) Transmittal (Transmittal) on May 8, 2008, as evidenced by the "Office Date" stamp thereon. However, without the inclusion of the Deposit Account Number on the form there was no authorization to charge the required fees.

As an additional aid to applicants, the rule as proposed has been amended to include §§ 1.311(b)(1) and (b)(2) that can act as safety mechanisms. Where it is clear that an applicant actually intends to pay the issue fee and publication fee (if required) such as by submitting an incorrect issue fee or publication fee, or a fee transmittal form (or letter) for payment of the fees, a request to charge the correct issue fee or any publication fee due to any deposit account identified in a previously filed authorization to charge **such** fees, will be allowed to act a payment of the correct issue fee.

Petitioner should review the amended rules pertaining to general authorization to pay fees. See 65 FR 54647 September 8, 2000, revised 69 FR 56481 September 21, 2004, effective September 21, 2004.

Unfortunately, the application file does not reveal a previously filed authorization to charge **such** fee(s) or specifically the issue fee.

In light of the non-compliance with 37CFR 1.25, the holding of abandonment cannot be withdrawn. Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further correspondence with respect to filing the petition under 37 CFR 1.137 should be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-305-9250 x 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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Commissioner for Patents
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HEWLETT PACKARD COMPANY
P O BOX 272400 3404 E HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Moffatt, et al.	:	
Application No. 11/080,209	:	ON PETITION
Filed: March 14, 2005	:	
Attorney Docket No. 200403746-1		

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 1, 2008.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 8, 2008. This notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on May 9, 2008. The Office mailed a Notice of Abandonment on June 4, 2008.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue and publication fees.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Jay D. Logue	: DECISION ON REQUEST FOR
Patent Number	: 7650383	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,240	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: 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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HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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OFFICE OF PETITIONS

In re Application of	:	
Bo Wu	:	
Application No. 11/080,241	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. 03357.0007.NPUS00	:	FROM RECORD
	:	

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 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Viola Kung on behalf of all attorneys of record who are associated with customer No. 27194.

All attorneys/agents associated with the Customer Number 27194 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: BO WU
1657 WILLOW LAKE LANE
SAN JOSE, CA 95131

cc: J. JAMES LI
GRENBERG TRAURIG
1900 UNIVERSITY AVENUE
EAST PALO ALTO, CA 94303

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/080,241	03/15/2005	Bo Wu	03357.0007.NPUS00

CONFIRMATION NO. 4267

POWER OF ATTORNEY NOTICE

27194
HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

OC000000031219269

Date Mailed: 07/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/28/2007.

- 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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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	:	
Hao Zheng et al.	:	
Application No. 11/080,258	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 017887-007120US	:	FROM RECORD
	:	

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 29, 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 Philip H. Albert and all attorneys/agents of record has been revoked by the assignee of the patent application on November 17, 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: YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO CA 94304

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SAM L. NGUYEN
HELLER EHRMAN, LLP
275 MIDDLEFIELD ROAD
MENLO PARK, CA 94025-3506

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In re Application of	:	
Adelman, et al.	:	
Application No. 11/080,283	:	DECISION ON PETITION
Filed: March 14, 2005	:	TO WITHDRAW
Attorney Docket No. 39750-0026.US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 14, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Heller Ehrman, LLP has been revoked by the assignee of the patent application on May 25, 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: RAHUL PATHAK, JONES DAY
2882 SAND HILL ROAD
SUITE 240
MENLO PARK, CA 94025

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/09

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11080284 Patent No.: 7199025

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Thao X. Le/ SPE AU2892

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SCENERA RESEARCH, LLC
111 Corning Road
Suite 220
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Eric C. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7646854	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,285	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
1251 AVENUE OF THE AMERICAS FL C3
NEW YORK, NY 10020-1105

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Reynolds, et al.	:	DECISION ON PETITION
Application No. 11/080,321	:	
Filed: March 15, 2005	:	
Docket No.: UV-104 Cont.	:	

The above-identified application has been forwarded to the Office of Petitions for consideration of the "RELY TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION," filed June 24, 2005.

This matter is being treated as a petition under 37 CFR 1.181. No petition fee is required.

Petitioners herein request that the copy of the Declaration filed on acceptance March 15, 2005 be accepted in fulfillment of the oath or declaration requirement in the above-referenced application. Petitioners indicate that the declaration in question is a copy of the fully executed declaration submitted in parent application 09/400,391 in accordance with 37 CFR 1.63(d). Petitioners further indicate that the signature of inventor Michael D. Ellis appears "faint" on the copy of the declaration, but that the copy represents the best copy of the declaration available to petitioners.

The copy of the declaration submitted March 15, 2005 has been compared with the declaration found in the official application file for application number 09/400,391 and found to be identical. A copy is enclosed for petitioners' records.

In view thereof, the request to admit the declaration submitted March 15, 2005 is hereby **GRANTED**.

This application is being forwarded to the Office of Initial Patent Examination for further processing with an indication in the record that the declaration submitted March 15, 2001 may be accepted into the record notwithstanding any objections made by the examiner during the course of examination.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Declaration

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Ropes & Gray LLP
Patent Docketing 39/361
1211 Avenue of the Americas
New York, NY 10036-8704

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JUL 21 2008

In re Application of	:	
Howard Lutnick, et al.	:	
Application No. 11/080,322	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. CF-7CIP CON2	:	FROM RECORD
	:	

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 19, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Ropes & Gray LLP has been revoked by the assignee of the patent application on May 9, 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
Petitions Examiner
Office of Petitions

cc: **Dean P. Alderucci**
Cantor Fitzgerald, L.P.
100 East 59th Street (6th Floor)
New York, NY 10022

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William H. Logsdon
WEBB ZIESENHEIM LOGSDON ORKIN & HANSON, P.C.
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818

Mail Date: 04/23/2010

Applicant	: Coenraad Karel Van Kalken	: DECISION ON REQUEST FOR
Patent Number	: 7650290	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,339	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DONALD J. LENKSZUS
PO BOX 3064
CAREFREE AZ 85377

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OFFICE OF PETITIONS

In re Patent No. 7,262,570	:	
Issue Date: August 28, 2007	:	
Application No. 11/080,343	:	DECISION ON PETITION
Filed: March 15, 2005	:	
Attorney Docket No. ANDIGILOG-008	:	

This is a decision on the petition under 37 CFR 1.182, filed May 28, 2008, which is being treated as a petition 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.

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 Krystal Paige 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 Office
Office of Petitions

cc: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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OFFICE OF PETITIONS

In re Patent No. 7,276,867	:	
Issue Date:October 2, 2007	:	
Application No. 11/080,344	:	DECISION ON PETITION
Filed: March 15, 2005	:	
Attorney Docket No. ANDIGILOG-007	:	

This is a decision on the petition under 37 CFR 1.182, filed May 28, 2008, which is being treated as a petition 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.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3298. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Krystal Paige 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: Krystal Paige, South Tower, 8th Floor, Room C32 (Fax No. (571) 270-9937)

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DAVID W. CARRITHERS
CARRITHERS LAW OFFICE, PLLC
ONE PARAGON CENTRE, SUITE 140
6060 DUTCHMAN'S LANE
LOUISVILLE, KY 40205

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OFFICE OF PETITIONS

In re Application of	:	
Lawrence A. Brown	:	
Application No. 11/080,355	:	ON PETITION
Filed: February 17, 2005	:	
Attorney Docket No. AG104/2004	:	

This is a decision on the petition filed, October 5, 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 reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed March 20, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 21, 2007.

The above-identified application is being revived solely for purposes of continuity with a Request For Continued Examination (RCE) filed on October 5, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matters is being referred to Technology Center AU 3749 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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James C. Scheller, Jr.
Blakely, Sokoloff, Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025

Mail Date: 04/21/2010

Applicant	: Curtis Lee Carrender	: DECISION ON REQUEST FOR
Patent Number	: 7580378	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,379	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FITZPATRICK, CELLA, HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112-3800

In re Application of	:	
Yukio Murata	:	
Application No. 11/080,393	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 03560.002492.1	:	

This is a decision on the petition, filed December 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 Nonfinal Office action mailed September 21, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 6, 2006.

Petitioner asserts that the Office action dated September 21, 2005 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 all of the above-stated requirements.

A copy of the docket record for the above application was provided with the instant petition. However, the docket record is incomplete because applicant failed to include the receipt date of the Notice Of Abandonment. Therefore, the Office is not convinced that the Office action mailed September 21, 2005 was not received, since it too may not have been docketed.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of September 21, 2005, 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 the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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In re Application of	:	
Yukio Murata	:	
Application No. 11/080,393	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 03560.002492.1	:	

This is a decision on the renewed petition, filed June 29, 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 nonfinal Office action mailed September 21, 2005, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 6, 2006.

Petitioner asserts that the Office action dated September 21, 2005 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2625 for re-mailing the Office action of September 21, 2005. The period for reply will run from the mailing date of the Office action.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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CONNOLLY BOVE LODGE & HUTZ, LLP
SUITE 800
1990 M STREET NW
WASHINGTON, DC 20036-3425

In re Application of	:	
Averett, et. al.	:	DECISION ON REQUEST
Application No. 11/080,449	:	TO WITHDRAW FROM
Filed: March 16, 2005	:	RECORD
Attorney Docket No. 22222-00004-US3	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on September 22, 2005.

The request is **NOT APPROVED**.

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 responsibility for prosecution", does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above address until otherwise notified by applicant.

There is an outstanding Office action mailed March 22, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: Mr. Arthur Canonica
Novartis International AG
Basel CH-4002
SWITZERLAND

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

Mail Date: 04/22/2010

Applicant	: Salvatore Albani	: DECISION ON REQUEST FOR
Patent Number	: 7608683	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,458	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **285** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.

MARTIN D. MOYNIHAN
d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

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In re Application of	:	
Naddaka et al.	:	DECISION ON PETITION
Application No. 11/080,460	:	
Filed: March 16, 2005	:	
Attorney Docket No. 28635	:	

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT MPEP 711.03(c) AND 37 CFR 1.181" filed July 8, 2008.

The petition under 37 CFR § 1.181 is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. Extensions of time under 37 CFR 1.136(a) are not permitted. See 37 CFR 1.181(f).

The above-identified application became abandoned for failure to timely file corrected drawings within the three-month statutory period set in the Notice of Allowability mailed January 30, 2008. This period is not extendable. No reply received, the above-identified application became abandoned on May 1, 2008. A courtesy Notice of Abandonment was mailed on May 28, 2008.

In response, applicants filed the instant petition. Applicants argue that while the Notice of Allowability did indicate that corrected drawings were required, applicant did not respond to this requirement, since the requirement was both incomplete, in error, and more importantly, was previously addressed in a filing on June 20, 2005.

This argument has been considered, and it is determined that the petition to withdraw the holding of abandonment is not appropriate. As stated in MPEP 711.03(c), where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. However, where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

In this instance, there is actually no dispute as to whether the application is abandoned. The application became abandoned for failure to timely file corrected drawings as required by the Notice of Allowability mailed January 30, 2008. Applicant received the Notice. There is no question, as acknowledged by applicants, that they did not respond to the requirement set forth in the Notice. Regardless of the correction of a requirement, to avoid abandonment applicant must take action within the statutory period. Applicant cannot merely allow the period to expire without taking any action and thereafter, question the correction of the Notice. Thus, it is concluded that this application is properly regarded as abandoned.

In essence, applicants argue that their failure to respond should be excused because of alleged deficiencies in the requirement set forth in the Notice. Applicants argue as to why they did not respond. Applicants' contentions involve the cause of the abandonment and thus, are properly addressed on petition under 37 CFR 1.137.

Applicants are not precluded from submitting a petition to revive pursuant to § 1.137(a) or § 1.137(b). The determination of whether a delay was unavoidable is made on a case-by-case basis. However, applicants are advised that a delay is not ordinarily considered "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action. See MPEP 711.03(c).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MARTIN D. MOYNIHAN
d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Naddaka et al.	:	DECISION ON PETITION
Application No. 11/080,460	:	
Filed: March 16, 2005	:	
Attorney Docket No. 28635	:	

This is a decision on the "PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b)" filed January 6, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file corrected drawings within the three-month statutory period set in the Notice of Allowability mailed January 30, 2008. This period is not extendable. No reply received, the above-identified application became abandoned on May 1, 2008. A courtesy Notice of Abandonment was mailed on May 28, 2008. By decision mailed December 22, 2008, a prior "PETITION TO WITHDRAW HOLDING OF ABANDONMENT MPEP 711.03(c) AND 37 CFR 1.181" filed July 8, 2008 was dismissed.

In response, applicant filed the instant petition requesting revival based on unintentional delay. This petition includes the required reply[1] a response to the Notice in the form of corrected drawings; 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.

[1] The issue fee and publication fee were timely filed on March 7, 2008 in response to the Notice of Allowance and Fee(s) Due mailed January 30, 2008.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Martin Moynihan
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington VA 22202

COPY MAILED

MAR 12 2008

OFFICE OF PETITIONS

In re Application of Shamir Leibovitz Application No. 11/080,474 Filed: March 16, 2005 Attorney Docket Number: 29540 Title: METHOD AND PHARMACEUTICAL COMPOSITION FOR INHIBITING PREMATURE RAPTURE OF FETAL MEMBRANES, RIPENING OF UTERINE CERVIX AND PRETERM LABOR IN MAMMALS	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 21, 2007.

The petition is **DISMISSED**.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed March 27, 2007, which set a shortened statutory period for reply of one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on April 28, 2007. A Notice of abandonment was mailed on December 3, 2007.

With this petition, Petitioner has asserted that a response to the Restriction Requirement was submitted to the Office on May 29, 2007, along with a petition for a one-month extension of

time[1]. Petitioner has provided copies of these documents, along with a copy of a postcard receipt.

Section 503 of the M.P.E.P. sets forth, *in pertinent part*:

> If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The postcard that Petitioner has submitted concurrently with this petition has been reviewed by the undersigned. It is noted that it contains an Office of Initial Patent Examination date-stamp that reads "May 29 2007," however it is further noted that this **date-stamp has been cancelled**. As such, this postcard cannot serve as "prima facie evidence of receipt in the USPTO of all the items listed thereon," as the cancellation of this date stamp effectively means that no date was "stamped thereon by the USPTO."

Moreover, both the request for a one-month extension of time and the response to the restriction requirement has been reviewed, and neither appears to contain a **certificate of mailing**.

Still further, **neither submission has been executed**. As such, even if these papers had been timely received in the Office, they could not have been entered[2].

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)". 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]. Registered

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1 It is noted that May 27, 2007 fell on a Sunday, and May 28, 2007 fell on federal holiday.
2 See 37 C.F.R. § 1.4 and M.P.E.P. § 502.02.
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.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web[6].

Alternatively, **Petitioner may wish to consider submitting a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b) along with restriction requirement that has been executed.**

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[7]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Martin Moynihan
c/o Anthony Castorina
Suite 207
2001 Jefferson Davis Highway
Arlington, VA 22202

COPY MAILED
MAY 12 2008
OFFICE OF PETITIONS

In re Application of Shamir Leibovitz Application No. 11/080,474 Filed: March 16, 2005 Attorney Docket Number: 29540 Title: METHOD AND PHARMACEUTICAL COMPOSITION FOR INHIBITING PREMATURE RAPTURE OF FETAL MEMBRANES, RIPENING OF UTERINE CERVIX AND PRETERM LABOR IN MAMMALS	DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on March 31, 2008.

The renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed March 27, 2007, which set a shortened statutory period for reply of one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on April 28, 2007. A Notice of abandonment was mailed on December 3, 2007.

An original petition was filed on December 21, 2007, along with an assertion that a response to the Restriction Requirement was submitted to the Office on May 29, 2007, along with a petition

for a one-month extension of time[1]. Petitioner provided unexecuted copies of these documents, along with a copy of a postcard receipt.

The original petition was dismissed via the mailing of a decision on March 12, 2008 for three reasons: the date-stamp that appears on the copy of the postcard receipt had been cancelled, neither the request for a one-month extension of time nor the response to the restriction requirement contained a certificate of mailing or facsimile transmission, and neither document had been executed.

With this renewed petition, Petitioner has submitted a copy of a postcard receipt that contains an Office of Initial Patent Examination date-stamp that reads "May 29 2007," and this copy has not been cancelled. Petitioner has further submitted an executed copy of the petition for an extension of time and an executed copy of the response to the restriction requirement[2].

As such, it is clear that these items were timely received, and subsequently misplaced in the Office.

This renewed 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 response to the restriction requirement that was submitted concurrently with this renewed petition on March 31, 2008 can receive further processing in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries

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1 It is noted that May 27, 2007 fell on a Sunday, and May 28, 2007 fell on federal holiday.

2 With this renewed petition, Petitioner has asserted that Petitioner "declared" in the original petition that the copy of the postcard receipt, which was submitted concurrently therewith, was "filed in a pristine non-cancelled status." The original petition has been reviewed, and this statement does not appear to be accurate. Moreover, Petitioner has wondered why the decision discussed the lack of a certificate of mailing or facsimile transmission. Petitioner will note that the assertion that he delivered these items to the PTO mail room does not appear to have been set forth in the original petition, and it does not appear that this fact was revealed to the undersigned prior to the filing of this renewed petition.

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

COPY MAILED

FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Kia Silverbrook	:	
Application No. 11/080,496	:	DECISION ON PETITION
Filed: March 16, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. XMB097US	:	

This is a decision on the petition under 37 CFR 1.55(c), filed September 7, 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 8004, filed July 15, 1997, and PO 7991, also filed July 15, 1997.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign applications, 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 applications. 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 March 16, 2005, which is after November 29, 2000. It is further noted that non-provisional application number 09/113,122, filed July 10, 1998, to which the above-identified application claims priority was filed within 12 months of July 15, 1997 (the filing date of the foreign application to which benefit is now being claimed). On September 7, 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 applications, accompanies this decision on petition.

This application is being referred to Technology Center AU 2800, 2853 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Kenya A. McLaughlin at (571) 272-3222.

Charles Pearson
Director
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/080,496	03/16/2005	2853	1300	XMB097US	7	7	1

CONFIRMATION NO. 4411

CORRECTED FILING RECEIPT

OC000000022522025

24011
SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN, 2041
AUSTRALIA

Date Mailed: 02/15/2007

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)

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 PO8004 07/15/1997
AUSTRALIA PO7991 07/15/1997

If Required, Foreign Filing License Granted: 04/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/080,496

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PRINTHEAD NOZZLE ARRANGEMENT WITH A MICRO-ELECTROMECHANICAL SHAPE MEMORY ALLOY BASED ACTUATOR

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

COPY MAILED

NOV 27 2007

OFFICE OF PETITIONS

In re Application of Hasegawa et al.	:	
Application No. 11/080,511	:	DECISION ON PETITION
Filing Date: March 16, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ASA-481-11	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 20, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

The petition states the petition fee of $1,370 is being submitted by credit card. However, the Office has been unable to locate the credit card authorization form. Therefore, the fee has been charged to petitioner's deposit account.

This application is being forwarded to Technology Center Art Unit 1795 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/080,511	03/16/2005	1795	1000	ASA-481-11	10	2

CONFIRMATION NO. 3828

CORRECTED FILING RECEIPT

24956
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

OC000000026915425

Date Mailed: 11/27/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Norio Hasegawa, Tokyo, JAPAN;
Fumio Murai, Tokyo, JAPAN;
Katsuya Hayano, Hachioji-shi, JAPAN;

Assignment For Published Patent Application

Renesas Technology Corp.

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/777,060 02/13/2004 PAT 7,115,344
which is a CON of 10/096,599 03/14/2002 PAT 6,733,953
which is a CON of 09/893,532 06/29/2001 PAT 6,383,718
which is a CON of 09/577,367 05/23/2000 PAT 6,258,513
which is a CON of 09/359,732 07/23/1999 PAT 6,087,074
which is a CON of 09/188,368 11/10/1998 PAT 6,013,398
which is a CON of 08/904,754 08/01/1997 PAT 5,851,703
which is a CON of 08/699,732 08/20/1996 PAT 5,656,400
which is a CON of 08/418,402 04/07/1995 PAT 5,578,421
which is a DIV of 08/162,319 12/07/1993 PAT 5,429,896

Foreign Applications

JAPAN 04-326433 12/07/1992

If Required, Foreign Filing License Granted: 04/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/080,511**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Photomask and pattern forming method employing the same

Preliminary Class

430

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JJGJR.: 08-07

Paper No:__

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

COPY MAILED
AUG 27 2007
OFFICE OF PETITIONS

In re Application of	:	
Sakatani, et al.	:	DECISION
Application No. 11/080,544	:	
Filing Date: 16 March, 2005	:	
Attorney Docket No.: Q86812	:	

This is a decision on the petition filed on 12 December, 2006, and properly considered as a request under 37 C.F.R. §1.181 for the withdrawal of the holding of abandonment.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below, the petitions as considered under 37 C.F.R. §1.181 are **GRANTED**.

BACKGROUND

The record indicates that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 23 May, 2006, with reply due absent extension of time on or before 23August, 2006;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- the application went abandoned by operation of law after midnight 23 August, 2006;
- the Office mailed the Notice of Abandonment on 30 November, 2006;
- on 12 December, 2006, Petitioner filed the instant petition, recited that a reply was timely submitted, and provided a copy of that reply with a statement complying with the practice set forth in the Commentary at MPEP §711.03 (c) (discussed below), including a copy of the reply and a copy of the date-stamped (20 November, 2006) receipt card (see: MPEP §503[2]) evidencing receipt by the Office of, *inter alia*, the reply and a request and fee for extension of time to make timely the reply.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations

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[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7] And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

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regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a

> reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the showing requirement described above and satisfied his burden herein.

CONCLUSION

The instant petition under 37 C.F.R. §1.181 hereby is **granted**; and the 30 November, 2006, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 1700 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[11] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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AUG 1 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Andrew James Peacock Et al.	:	
Application No. 11/080,549	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. 44904.000083	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 14, 2005

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of attorneys/agents associated with customer number 21967. 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).

Patrick A. Doody signed the request on behalf of all attorneys of record.

Patrick A. Doody and all attorneys/agents associated with application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed July 07, 2006 that requires a reply from the applicant.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the office will be directed to the first named signing inventor or the assignee of the entire interest at the fist copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: James Alan Peacock
837 Bunkerhill Drive
Terre Haute, IN 47802-9363

Cc : Patrick A. Doody
Tredegar Film Products
1100 Boulder Parkway
Richmond, VA 23225

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 07 2009

OFFICE OF PETITIONS

BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA NY 14850-1248

In re Application of	:	
Kent MORGAN et al.	:	
Application No. 11/080,574	:	DECISION ON PETITION
Filed: March 15, 2005	:	
Attorney Docket No. 905P304 (NP)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 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 March 18, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 19, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of March 18, 2009 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2836 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

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OFFICE OF PETITIONS

GIFFORD, KRASS, GROH,
SPRINKLE & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

In re Application of	:	
Li, et al.	:	
Application No. 11/080,592	:	DECISION
Filing Date: 15 March, 2005	:	
Attorney Docket No.: TTC-15502/08	:	

This is a decision on the petition filed on 6 December, 2005, alleging unintentional delay under 37 C.F.R. §1.137(b).

The Office regrets the delay in addressing this matter–the petition was received by the attorneys in the Office of Petitions only at this writing

For the reasons set forth below, the petition under 37 C.F.R.§1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Notice of Missing Parts mailed on 9 May, 2005, with reply due with extensions of time on or before Monday, 11 July, 2005;

- the instant application went abandoned after midnight 9 July, 2005;

- it does not appear that the Office mailed a Notice of Abandonment before the instant petition was filed;

- Petitioner filed the petition (with fee), the reply in the form of oath/declaration and surcharge, and made the statement of unintentional delay–thus Petitioner appears to have satisfied the requirements under 37 C.F.R. §1.137(b);

- out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Oct. 21, 2004]

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

Petitioner appears to have satisfied the regulatory requirements.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) hereby is **granted**.

The instant application is released to OIPE for further processing before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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APR 16 2008

OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
901 MAIN STREET
SUITE 3100
DALLAS, TX 75202

In re Application of
Gunsei Kimoto
Application No. 11/080,601
Filed: March 15, 2005
Attorney Docket No. 32200.8

ON PETITION

This is a decision on the petition, filed April 15, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 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 2829 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).

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.

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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OCT 01 2008

In re Application of :
Thomas Dueber : DECISION ON PETITION
Application No. 11/080,608 :
Filed: March 15, 2005 :
Attorney Docket No. HP0005USNA:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed June 20, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply to the non-final Office action mailed October 11, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). An amendment was timely filed on January 11, 2008. However, on January 29, 2008, the Office mailed a Notice of Non-Compliant Amendment. This Notice set a one month period for reply. No further reply filed and no extension of time obtained, the application became abandoned effective March 1, 2008. This petition was filed prior to the mailing of a courtesy Notice of Abandonment.

The petition includes the required reply in the form of an amendment and the required statement of unintentional delay. The petition states that the fee payment is enclosed. However, no fee payment accompanied the petition. Nonetheless, pursuant to the authorization submitted on filing of the application, the petition fee has been charged to Deposit Account No. 04-1928. No terminal disclaimer is required. All requirements for

revival of this application pursuant to 37 CFR 1.137(b) have been met.

Technology Center AU 1796 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed June 20, 2008.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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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 E. Dueber	: DECISION ON REQUEST FOR
Patent Number	: 7579134	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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DARRELL JEROME PAYNE
920 E NEW YORK
LONG BEACH CA 90813

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JUL 23 2007

OFFICE OF PETITIONS

In re Application of :
Payne :
Application No. 11/080,620 :
Filed: August 15, 2005 : ON PETITION
Attorney Docket No. N/A :
For: BIBLE NOTEBOOK POUCH :

This is a decision on the petition under 37 CFR 1.181, filed May 9, 2007, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a timely reply to the September 29, 2006 non-final Office action, which set an extendable three month period for reply. Petitioner paid $60.00 in extension of time fees on December 26, 2006. The $260.00 extension of time fee paid on March 5, 2006 was paid too late. An applicant must purchase an extension of time covering up to the date the extension of time was filed. A two month extension of time fee was due **at the latest** on February 28, 2007. A three month extension of time (510.00) would have been due after February 28, 2007 until March 29, 2007. The $260.00 extension of time fee filed on March 5, 2006 did not cover a three month extension of time and will be refunded via a treasury check that will be scheduled shortly. The Office has no record of receiving a reply (albeit informal) to the September 29, 2006 non-final Office action until the present petition was filed. The application became abandoned on January 30, 2007. A Notice of Abandonment was mailed on May 2, 2007.

Petitioner alleges that a reply was timely mailed to the Office, but it was either lost in the mail or misplaced in the Office.

Petitioner has not stated exactly when the reply was filed. As explained above, petitioner must prove that a reply was filed by January 29, 2007.

(1) Petitioner must provide a copy of the original document with an affixed certificate of mailing listing the desired date as the date of deposit (See 37 CFR 1.8) OR
(2) Petitioner must provide a copy of an Express Mail label showing a "date-in" of the desired date and a copy of the document that contains a reference to the Express Mail receipt number (37 CFR 1.10).

Because petitioner has not provided acceptable evidence that a reply was filed by January 29, 2007, the petition is dismissed.

Petitioner is encouraged to file a petition to revive under the unintentional delay standard of 37 CFR 1.137(b). The petition fee is $750.00. It is noted that a copy of the reply is not signed. Please submit a signed copy of the reply with any reconsideration petition or petition under 37 CFR 1.137(b). For petitioner's convenience, a blank copy of Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b) is enclosed.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

enclosures: blank PTO/SB/61 -- Petition for Revival of an Application Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

PTO/SB/64 (04-07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARRELL JEROME PAYNE
920 E NEW YORK
LONG BEACH CA 90813

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DEC 1 2 2007

OFFICE OF PETITIONS

In re Application of :
Payne :
Application No. 11/080,620 :
Filed: August 15, 2005 : ON PETITION
Attorney Docket No. N/A :
For: BIBLE NOTEBOOK POUCH :

This is a decision on the petition under 37 CFR 1.137(b), filed September 25, 2007 (certificate of mailing date September 21, 2007), to revive the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to submit a timely reply to the September 29, 2006 non-final Office action, which set an extendable three month period for reply. Petitioner paid $60.00 in extension of time fees on December 26, 2006. The $260.00 extension of time fee paid on March 5, 2006 was paid too late. An applicant must purchase an extension of time covering up to the date the extension of time was filed. A two month extension of time fee was due **at the latest** on February 28, 2007. A three month extension of time (510.00) would have been due after February 28, 2007 until March 29, 2007. The $260.00 extension of time fee filed on March 5, 2006 did not cover a three month extension of time and will be refunded via a treasury check that will be scheduled shortly. The Office has no record of receiving a reply (albeit informal) to the September 29, 2006 non-final Office action until the present petition was filed. The application became abandoned on January 30, 2007. A Notice of Abandonment was mailed on May 2, 2007.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed.;

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

As stated in the previous decision on petition: "It is noted that a copy of the reply is not signed. Please submit a signed copy of the reply with any reconsideration petition or petition under 37 CFR 1.137(b)."

It appears that petitioner did not file a signed copy of the intended reply with the present petition. Please file a signed copy of the intended reply promptly.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DARRELL JEROME PAYNE
920 E NEW YORK
LONG BEACH CA 90813

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FEB 29 2008

In re Application of :
Payne :
Application No. 11/080,620 :
Filed: August 15, 2005 : ON PETITION
Attorney Docket No. N/A :
For: BIBLE NOTEBOOK POUCH :

This is a decision on the reconsideration petition under 37 CFR 1.137(b), filed February 7, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit a timely reply to the September 29, 2006 non-final Office action, which set an extendable three month period for reply. Petitioner paid $60.00 in extension of time fees on December 26, 2006. The $260.00 extension of time fee paid on March 5, 2006 was paid too late. An applicant must purchase an extension of time covering up to the date the extension of time was filed. A two month extension of time fee was due **at the latest** on February 28, 2007. A three month extension of time (510.00) would have been due after February 28, 2007 until March 29, 2007. The $260.00 extension of time fee filed on March 5, 2006 did not cover a three month extension of time and will be refunded via a treasury check that will be scheduled shortly. The Office has no record of receiving a reply (albeit informal) to the September 29, 2006 non-final Office action until the present petition was filed. The application became abandoned on January 30, 2007. A Notice of Abandonment was mailed on May 2, 2007.

Applicant has submitted an amendment in reply to the September 29, 2006 non-final Office action, a proper statement of the unintentional nature of the delay in responding to the September 29, 2006 non-final Office action, and the $750.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 3722 for consideration of the amendment filed on February 7, 2008.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090219

DATE : February 26, 2009

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,432,912

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: /Shalwala Bipin/ Art Unit 2629

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

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Roger S. Zimmerman	: DECISION ON REQUEST FOR
Patent Number	: 7613610	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1266** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

MAILED

JUN 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Eric T. AHRENS et al.	:	
Application No. 11/080,732	:	DECISION ON PETITION
Filed: March 14, 2005	:	
Attorney Docket No. CAMU-P03-001	:	

This is a decision on the petition filed October 14, 2009, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed September 05, 2007 be withdrawn. The $400 petition fee has been received.

The petition is **Granted**.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended to remove the basis for the previous obviousness-type double patenting rejection, there is no further need for the disclaimer to remain recorded against this application. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

This application file is being referred to the Technology Center AU 1633.

Telephone inquiries related to this decision should be addressed to Michelle R. Eason at (571) – 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DALE R. LOVERCHECK
92 PATRICIA PLACE
MEDIA, PA 19063

COPY MAILED
FEB 09 2006
OFFICE OF PETITIONS

In re Application of	:	
Dale R. Lovercheck	:	
Application No. 11/080,733	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. ANAL-VIT-CON	:	37 CFR 1.102(d)

This is a decision on the petition under 37 CFR §1.102(d), filed December 29, 2005, and supplemented on January 18, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringingdevice 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 1617 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 08-07

Paper No: __

CANTOR COLBURN LLP
-IBM POUGHKEEPSIE
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

SEP 0 4 2007

OFFICE OF PETITIONS

In re Application of	:	
Bradfield	:	DECISION
Application No.: 11/080,746	:	
Filing Date: 15 March, 2005	:	
Attorney Docket No. D-183/DRI-0014	:	

This is a decision on the petition filed on 1 December, 2006, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

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[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

(If Petitioner is unable to present even a satisfactory showing to support a petition under 37 C.F.R. §1.137(a), and Petitioner's only alternative will be to file a petition under 37 C.F.R. §1.137(b).)

(2) Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers mailed on 5 January, 2006, with a 30-day reply due under a non-extendable deadline on or before 4 February, 2006;
- the application went abandoned by operation of law after midnight on 4 February, 2006;
- the Office mailed the Notice of Abandonment on 17 November, 2006;
- on 1 December, 2006, Petitioner filed the instant petition, and, *inter alia*, with a copy of papers averred to have been transmitted on 10 January, 2006, as a reply, and an averment that he replied timely and properly because a copy of Petitioner's "fax transaction reported show[ed] that the fax was received by the United States Patent and Trademark Office".

Had Petitioner reviewed the instant application online in Private PAIR following the averred filing, Petitioner would have found that no paper as described by him was received by the Office for filing.

Moreover, as one long registered to practice before the Office, Petitioner knows that the indicia that the Office has received a FAX transmission is a confirmation paper that the Office sends by FAX to one who has successfully transmitted papers to the Office.

Since Petitioner provides no such document, Petitioner appears not to have such a document, and so does not sufficiently support his petition herein.

---

[2] For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

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[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been

---

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation requires that relief be sought within two (2) months of the act complained of.

It does not appear that Petitioner has satisfied the showing required, as described above.

CONCLUSION

Because it appears that Petitioner has not satisfied in part the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 is **is dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply (the amendment), the petition fee, and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:[11]

---

[11] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[12]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[13]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[12] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[13] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/080,746	03/15/2005	Michael D. Bradfield	D-183 / DRI-0014	3419

46429 7590 01/05/2006

CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER
PRESTON, ERIK D

ART UNIT	PAPER NUMBER
2834	

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Serial Number
11080746

Date Mailed
1/05/06

NOTICE TO FILE CORRECTED APPLICATION PAPERS

Notice of Allowance Mailed

This application has been accorded an Allowance Date and is being prepared for issuance. The application, however, is incomplete for the reasons below.

Applicant is given 30 days from the mail date of this Notice within which to correct the informalities indicated below. A failure to reply will result in the application being ABANDONED. This period for reply is NOT extendable under 37 CFR 1.136 (a) or (b).

- Fax copy of amended claim dated September 26, 2005 is illegible. Fax legible information to number below or e-mail.
    - For status updates visit http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR System, contact the Electronic Business Center (EBC) toll free at 866-217-9197.

APPLICANT MUST SUPPLY MISSING INFORMATION WITHIN 30 DAYS OF THE MAIL DATE OF THIS NOTICE.

A copy of this notice MUST be returned with the reply. Please address response to Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Rori Burch
USPTO
Publishing Division
Rori.burch@uspto.gov
Fax (571) 273-9009
Fax (703) 308-6642
703-305-0333 ext.135 (V)

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

INDIANO VAUGHAN LLP
ONE N. PENNSYLVANIA ST, SUITE 1300
INDIANAPOLIS IN 46204

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MAY 0 9 2007

OFFICE OF PETITIONS

In re Application of	
STAGER, Donald J.	
Application No. 11/080,758	DECISION ON PETITION
Filed: March 15, 2005	TO WITHDRAW
Attorney Docket No. 3139-0002	FROM RECORD

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 7, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DONALD J. STAGER**
10172 CLEAR SKY DRIVE
AVON, IN 46123

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

PITNEY HARDIN
7 TIMES QUARE
NEW YORK, NY 10036-7311

COPY MAILED
NOV 25 2005
OFFICE OF PETITIONS

In re Application of	:	
Jan Bjerregaard et al	:	
Application No. 11/080,772	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 005392.111087	:	37 CFR 1.102(d)
	:	

This is a decision on the renewed petition under 37 CFR §1.102(d), filed August 24, 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 3727 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUL 21 2010

OFFICE OF PETITIONS

In re Application of :
Moneymaker et al. :
Application No. 11/080,790 :
Filed: March 15, 2005 :
Attorney Docket No. 15298US03 :
Title: PHARMANUTRIENT :
COMPOSITION(S) AND SYSTEM(S) :
FOR INDIVIDUALIZED, RESPONSIVE :
DOSING REGIMENS :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed April 19, 2010. This request is properly treated under 37 CFR 1.705(b). This decision will also address the request for expedited treatment pursuant to 37 CFR 1.182 filed July 12, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is seven hundred seventy-five (775) days, not four hundred seventy-eight (478) 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 petition for expedited treatment under 37 CFR 1.182 is **Granted**.

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**.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

---

[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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

---

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/23/09

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 11080803 Patent No.: 7375182 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments:_____

_____

/Manjunath Rao/ **1647**
SPE **Art Unit**

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JUL 27 2005

In re Application of David J. Morrison Serial No. 11/080,813 Filed: March 16, 2005 For: STORAGE AND DISPLAY PACKAGE FOR BATTERIES	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed April 28, 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

Litman Law Offices, Ltd.
P.O. Box 15035
Arlington, VA 22215

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United States Patent and Trademark Office
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MAY 12 2007

Technology Center 2100

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20001-4413

In re Application of: Julien DELVAT et al.
Application No. 11/080,816
Filed: March 16, 2005
For: METHODS, COMPUTER PROGRAM PRODUCTS AND DATA PROCESSING SYSTEMS FOR DISPLAYING A PLURALITY OF DATA OBJECTS

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed on August 24, 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of August 24, 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Pat Salce

Pat Salce
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3610

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UNITED STATES DEPARTMENT OF COMMERCE
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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Julien Delvat	: DECISION ON REQUEST FOR
Patent Number	: 7587666	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/080,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **594** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DLA PIPER RUDNICK GRAY CARY US LLP
P. O. BOX 9271
RESTON VA 20195

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OCT 11 2005

OFFICE OF PETITIONS

In re Application of :
Hand et al. :
Application No. 11/080,846 : DECISION REFUSING STATUS
Filed: March 16, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 6002-001-52 :
Title: STORAGE SYSTEM ARCHITECTURES :
AND MULTIPLE CACHING ARRANGEMENTS:

This is in response to the petition filed September 15, 2005, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on March 16, 2005, without an executed oath or declaration. Accordingly, on April 15, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of June 15, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. To make timely a three month extension of time was obtained.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the

petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition does not satisfy requirements (2).

As to item (2), the declaration submitted does not comply with 37 CFR 1.64(b). Where an oath or declaration is being signed on behalf of a deceased inventor, the oath or declaration shall state the person is a legal representative and provide the name, citizenship, residence and mailing address of the legal representative. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. As the declaration stands, only one inventor has executed on behalf of the non-signing legal representative.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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P. O. BOX 9271
RESTON VA 20195

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JAN 06 2006
OFFICE OF PETITIONS

In re Application of Leroy Hand, Arnold Anderson and Linda McClure Application No.11/080,846 Filed: March 16, 2005 Attorney Docket No. 6002-001-52 Title of Invention: Storage System Architectures and Multiple Caching Arrangements	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed December 12, 2005, under 37 C.F.R. §1.47(a).

Petitioner has shown the non-signing legal representative of deceased inventor Anderson has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to legal representative last known address. The legal representative's failure to respond to the application mailing sufficiently establishes that she refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

This application is being forwarded to Technology Center 2100 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Amy Anderson
1012 Kinsdale Drive
Raleigh, North Carolina 27615

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JAN 0 6 2006

OFFICE OF PETITIONS

In re Application of
Leroy Hand, Arnold Anderson and Linda McClure
Application No.11/080,846
Filed: March 16, 2005
Attorney Docket No. 6002-001-52
Title of Invention: Storage System Architectures and Multiple Caching Arrangements

LETTER

Dear Ms. Anderson :

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
Petitions Attorney
Office of Petitions

DLA PIPER RUDNICK GRAY CARY US LLP
P. O. BOX 9271
RESTON VA 20195
ATTN: DALE S. LAZAR

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRIARCLIFF MANOR NY 10510

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MAY 03 2007

OFFICE OF PETITIONS

In re Application of
Johannes N. Huibert et al.
Application No. 11/080,883
Filed: March 15, 2005
Attorney Docket No.: PHN17,656B

ON PETITION

This is a decision on the petition filed January 25, 2007, which is being treated under 37 CFR 1.181, to withdraw the petition filed January 22, 2007, to revive the above-identified application under 37 CFR 1.137(b)[1] .

The petition to withdraw the previous filed petition is treated under 37 CFR 1.181 and is **GRANTED**.

The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

With payment of the issue fee, petitioner filed a Petition to Revive on January 22, 2007. On January 25, 2007 however, the instant petition was filed seeking to have the petition to revive withdrawn in advance of consideration as petitioner believed that the period for response to the December 6, 2006 "Notice" was extended by the time period set forth in the Notice of Allowability, until January 23, 2007.

In view thereof, since the instant request to withdraw the January 22, 2007 petition to revive is grantable and since this application has not been held abandoned, the petition to revive will not be considered.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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). Agrantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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Stanley P. Fisher
Reed Smith LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042-4503

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Yarita et al.	:	
Application No. 11/080,884	:	
Filed: March 16, 2005	:	ON PETITION
Attorney Docket Number:	:	
HITA.0682	:	

This is in response to the Petition Submitted With Response to Notice of Omitted Items, filed April 28, 2005. The correspondence is properly treated as a petition under 37 CFR 1.53[1].

Application papers in the above-identified application were filed on March 16, 2005. On April 14, 2005, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), indicating, *inter alia*, that Figure 1D described in the specification appeared to have been omitted from the application. The Notice set a two-month period for reply, with extensions of time available under 37 CFR § 1.136(a).

In response, Applicant files the instant correspondence wherein Applicant avers that Figure 1D was not omitted from the application, but merely referenced in error in the specification. Applicant files a preliminary amendment and requests acceptance of the preliminary amendment.

---

[1] The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under 37 CFR 1.53); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

It is obvious from the petition that no drawing Figure was actually missing on March 16, 2005. Rather, the specification was simply mislabeled as a result of Applicant's filing error. However, the Notice mailed April 14, 2005, was correct in stating that Figure 1D described in the specification appeared to have been omitted from the application.

Acceptance of the preliminary amendment is an issue for the examiner to consider. As such, the Preliminary Amendment filed with the instant petition on April 28, 2005, will be considered by the primary examiner in due course. *Accord* MPEP 601.01(g).

Accordingly, the petition is dismissed.

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing, with the filing date of March 16, 2005, using the application papers and drawing Figures filed on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

SUZANNE JAFFE STILLMAN

Attorney Docket No. 21065.102D1US

Filed: March 16, 2005

OIPE JC79 MAR 16 2005 PATENT & TRADEMARK OFFICE

11/080947
3-16-05

Application Branch
1761

For: FIBER-WATER WITH ADDED VALUE DELIVERY SYSTEMS/ELEMENTS/ADDITIVES, ADDRESSING SPECIFIC DIETARY USES AND/OR MEDICAL USES FOR HUMAN AND ANIMALS

PETITION TO MAKE SPECIAL

Hon. Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant hereby petitions the Commissioner for Patents pursuant to M.P.E.P. §708.02 III and 37 CFR 1.102(c) to grant the above-identified application special status by reason of the Applicant's health. A copy of a doctor's certificate by Phillip R. Fleshner, M.D. is enclosed, and shows that the health of the Applicant is such that she might not be available to assist in the prosecution of the application if it were to run its normal course.

Under 37 CFR 1.102(c), no fee is required for the above-identified petition.

Respectfully submitted,

By _____

Joseph V. Colaianni, Reg. No. 20,019
PATTON BOGGS LLP
2550 M Street, N.W.
Washington, D.C. 20037
202-457-6000

Filed: March 16, 2005

3707522_1

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700

OCT 25 2006

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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Mail Date: 04/30/2010

Applicant	: John Allan Morrison	: DECISION ON REQUEST FOR
Patent Number	: 7610058	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/080,961	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **812** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 29 2005

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:
Jeffrey Browning et al	:
Serial No.: 11/080,973	: PETITION TO MAKE SPECIAL
Filed: March 16, 2005	:
Attorney Docket No.: 08201.0024-03000	:

This is in response to applicants' petition filed March 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, VIII. Therefor the petition is **GRANTED**.

The following condition applies to the grant of this petition: If, upon examination, it is determined that a restriction requirement is necessary because of multiple inventions being claimed, applicant will be required to make an election without traverse of a single invention to be prosecuted. Failure to make an election without traverse will void the special status accorded in this decision.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact 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 the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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VOLENTINE & WHITE PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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APR 16 2008

In re Application of	:	
Gi Ho Park	:	
Application No. 11/080,986	:	DECISION GRANTING PETITION
Filed: March 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. SEC.1276	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Chuang Wang	: DECISION ON REQUEST FOR
Patent Number	: 7574530	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,014	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/10/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY
ADMINISTRATION, LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND CO 80537

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:
Mingda Wang	:
Application No. 11/081,048	: DECISION GRANTING PETITION
Filed: March 15, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 10040198-01	:

This is a decision on the petition under 37 CFR 1.137(b), filed September 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of May 3, 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 Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Jones Day
222 East 41st Street
New York, NY 10017

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Steve Quackenbush et al.	:	
Application No. 11/081,053	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. 10515-015-999	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 12, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peter G. Thurlow 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 Steve Quackenbush at the address indicated below.

There is an outstanding Office action mailed September 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: **Steven Quackenbush**
4600 Campus Drive
Newport Beach, California 91660

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,053	03/14/2005	Steve Quackenbush	10515-015-999

CONFIRMATION NO. 4964

POWER OF ATTORNEY NOTICE

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

OC000000028075345

Date Mailed: 02/01/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/12/2007.

- 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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14TH FLOOR
VIENNA, VA 22182-6212

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Brandon Carl SMITH, et al	:	
Application No. 11/081,057	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 58268.00448	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 3, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 3, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 4, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

cc: JOSEPH KEY
BRAKE HUGHES BELLERMANN LLP
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/081,066	03/15/2005	Yasuhiko Sengoku	JP920040012US1	3957

27431 7590 07/30/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER
SONG, HOSUK

ART UNIT	PAPER NUMBER
2135	

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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TECHNOLOGY CENTER 2100

SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: Yasuhiko SENGOKU
Application No. 11/081,066
Filed: March 15, 2005
For: SYSTEM, METHOD AND PROGRAM PRODUCT TO PREVENT UNAUTHORIZED ACCESS TO PORTABLE MEMORY OR STORAGE DEVICE

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 July 2, 2008, to make the above-identified application special.

The petition is **DENIED**.

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 failed item (4) above, since a First Action on the Merits was mailed to applicants on July 22, 2008.

Therefore, the Petition is **DENIED**.

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 should be directed to Patent Application Information Retrieval (PAIR) system.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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David L. McCombs
Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of
Sivakumar Ravikumar et al.
Application No. 11/081,068
Filed: March 15, 2005
Attorney Docket No. 36244.4

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 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 David L. McCombs on behalf of all attorneys of record who are associated with Customer No. 27683

All attorneys/agents associated with the Customer Number 27683 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: Sivakumar Ravikumar
9 Cottonwood Place
Plano, TX 75075

cc: Timothy F. Bliss, Esq.
6628 Warm Breeze Lane
Dallas, TX 75248

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/13/2010

Applicant	: Stefano B. Previdi	: DECISION ON REQUEST FOR
Patent Number	: 7616574	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/081,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **891** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JOHN S. HALE
GIPPLE & HALE
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MCLEAN VA 22101

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AUG 05 2008

In re Application of
Truncale, et al.
Application No. 11/081,103
Filed: March 16, 2005
Attorney Docket No. 103248-010800

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 16, 2008 and supplemented July 17, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application. All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this

application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Also, 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and 1.78(a))(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The correspondence address indicated on the petition differs from that contained in the record. The instant decision is being dually mailed as a courtesy. However, all future correspondence concerning this application will continue to be directed to the correspondence address of record until such time as appropriate instruction is received to the contrary.

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. 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 1651 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

CC: John K. Kim
Greenberg Traurig, LLP
200 Park Avenue
P.O. Box 677
Florham Park, NJ 07932

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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
11/081,103	03/16/2005	1651	1200	103248-010800	20	4

CONFIRMATION NO. 4614

CORRECTED FILING RECEIPT

615
JOHN S. HALE
GIPPLE & HALE
6665-A OLD DOMINION DRIVE
MCLEAN, VA 22101

OC000000031355324

Date Mailed: 08/04/2008

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)

Katherine Ann Gomes Truncale, Hillsborough, NJ;
Arthur A. Gertzman, Flemington, NJ;

Power of Attorney: The patent practitioners associated with Customer Number 67395

Domestic Priority data as claimed by applicant

This application is a CIP of 10/424,765 04/29/2003 PAT 7,067,123
and claims benefit of 60/566,618 04/30/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/081,103**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Cartilage repair mixture containing allograft chondrocytes

Preliminary Class

424

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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GREENBERG TRAURIG, LLP
200 PARK AVE.
P.O. BOX 677
FLORHAM PARK NJ 07932

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OFFICE OF PETITIONS

In re Application of	:	
Katherine Ann Gomes Truncale, et al.	:	
Application No. 11/081,103	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 103248-010906	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 3, 2009, 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 attorney of record declaring that he/she is in possession of such evidence that proves that the applicant Arthur A. Gertzman 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 Johnson 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 1651 for action on the merits commensurate with this decision.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Patrick J. Finlay	: DECISION ON REQUEST FOR
Patent Number	: 7584874	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,108	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1119** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Patrick J. Finlay	: DECISION ON REQUEST FOR
Patent Number	: 7641080	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HICKMAN PALERMO TRUONG
& BECKER LLP/YAHOO! INC.
2055 GATEWAY PLACE, SUITE 550
SAN JOSE, CA 95110-1083

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OFFICE OF PETITIONS

In re Application of	:	
Erik THOMSEN	:	
Application No. 11/081,121	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. 021756-078000US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 9, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hickman Palermo Truong & Becker LLP, has been revoked by the assignee of the patent application on February 2, 2009. 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 undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWSEND
AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/081,121	03/15/2005	Erik Thomsen	021756-078000US	4772

51206 7590 10/22/2009
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER
QUADER, FAZLUL

ART UNIT	PAPER NUMBER
2164	

MAIL DATE	DELIVERY MODE
10/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center
8th Floor
San Francisco, CA 94111-3834

In re Application of:
Erik THOMSEN
Application No. 11/081,121
Filed: March 15, 2005
For: DIMENSIONALITY REDUCTION

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a proper reply to the Office communication mailed on 18 September 2008. A Notice of Abandonment was mailed on 06 October 2009.

A review of the file record indicates that a Notice of Appeal, a Pre-Appeal Brief Request and a request for 1 month extension of time were timely filed on 13 January 2009. Thus, the instant application is currently pending for a Decision on the Request for Pre-Appeal Brief. The Office regrets any inconvenience caused by this error.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, the holding of Abandonment is hereby withdrawn.

The application is being forwarded to the examiner of record to conduct a pre-appeal brief conference.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

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QUALCOMM, INC
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Abrol et al.	:	
Application No. 11/081,124	:	DECISION ON PETITION
Filed: 15 March, 2005	:	
Attorney Docket No. 040606	:	
	:	

This is a decision on the petition filed on 2 December, 2005, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 9 May, 2005, a Notice to File Missing Parts of Nonprovisional Application was filed, setting a two (2) month period for reply and requiring the filing an oath or declaration or a surcharge for its late filing. The Notice stated that extensions of time under 37 CFR 1.136(a) were available.

On 2 December, 2005, an executed declaration, surcharge for its late filing, and a paper styled as a petition under 37 CFR 1.137(b) were filed, which included an authorization to charge counsel's deposit account any additional fees which may be required.

As the papers filed on 2 December, 2005, were filed within the fifth (5) extendable month, the application constitutes a timely response. As such, the papers will be treated as a request for a five (5) month extension of time under 37 CFR 1.136(a).

The balance of the fee due for a five (5) month extension of time will be charged to counsel's deposit account.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/23/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11081150 Patent No.: 7498007

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

SPE

1793

Art Unit

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Kenneth T. Heruth	: DECISION ON REQUEST FOR
Patent Number	: 7590455	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,155	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY MO 64106-2140

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JUL 02 2008

In re Application of	:	
Dennis Lee **ABERNATHIE**	:	
Application No. 11/081,162	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 5014730-3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed August 2, 2007, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained on January 31, 2008. Accordingly, the above-identified application became abandoned on February 3, 2008.

The petition satisfies the requirements for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, a Request for Continued Examination, and the $405 filing fee, (2) the petition fee of $770, and (3) a proper statement of unintentional delay have been received. Accordingly, the reply to the final Office action of August 2, 2007 is accepted as having been unintentionally delayed.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571)272-6052.

This application is being referred to Technology Center AU 3733 for appropriate action on the concurrently filed Request for Continued Examination and amendment.

David Bucci
Petitions Examiner
Office of Petitions

Cc: R. Scott Kimsey
1000 Walnut St. Suite 1400
Kansas City, MO 64106

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Director of IP
5521 Hellyer Avenue
San Jose, CA 95138

Mail Date: 04/26/2010

Applicant	: Matthew R. Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7604843	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,163	: OF WYETH
Filed	: 03/16/2005	:
		:

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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Alexandria, VA 22313-1450
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BARRY W. CHAPIN
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH MA 01581

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OFFICE OF PETITIONS

In re Application of	:	
Martin et al.	:	
Application No. 11/081,177	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. EMC05-14 (02179CIP1)	:	

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 **GRANTED**.

This application became abandoned for failure to timely reply to the final Office action mailed October 18, 2007. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on January 19, 2008. A Notice of Abandonment was mailed July 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 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.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2192 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendments submitted June 20, 2008 in accordance with 37 CFR 1.114.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY, PATENT OPERATIONS
PO BOX 5312
PRINCETON, NJ 08543

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OFFICE OF PETITIONS

In re Application of :
Blonde et al. :
Application No. 11/081,199 :
Filed: March 16, 2005 :
Attorney Docket No. PF040042 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Daniel E. Sragow appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 8, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 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 matter is being referred to Technology Center 2624 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Law Offices of Elliot N. Kramsky
5850 Canoga Avenue, Suite 400
Woodland Hills, CA 91367

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JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Paul Kuo	:	
Application No. 11/081,207	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO WITHDRAW
Attorney Docket No. 466-103	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Law Offices of Elliot N. Kramsky has been revoked by the assignee of the patent application on December 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bacon & Thomas, PLLC**
625 Slaters Lane
Fourth Floor
Alexandria, VA 22314

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GALLOP, JOHNSON & NEUMAN, L.C.
101 S. HANLEY, SUITE 1600
ST. LOUIS MO 63105

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OFFICE OF PETITIONS

In re Application of
Gary R. Eldridge et al
Application No. 11/081,240
Filed: March 16, 2005
Attorney Docket No. 109545-0032

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed July 9, 2008, is accepted as having been unintentionally delayed.

The filing of a terminal disclaimer is required on utility/plant applications filed prior to June 8, 1995.

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 $310 extension of time fee submitted with the petition on February 4, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary. Petitioner may request a refund of the extension fee by writing to the Office of Finance Refund Section. A copy of this decision should accompany the request.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1617 for appropriate action by the Examiner in the normal course of business on the reply received February 4, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/081,248	03/16/2005	Paul Murray	200402333-2	5353

22879 7590 09/24/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
SIKRI, ANISH

ART UNIT	PAPER NUMBER
2143	

NOTIFICATION DATE	DELIVERY MODE
09/24/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
mkraft@hp.com
ipa.mail@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 23 2008

TECHNOLOGY CENTER 2100

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

In re Application of: MURRAY et al.
Application No. 11/081,248
Filed: March 16, 2005
For: PROVISION OF RESOURCE ALLOCATION INFORMATION

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 June 30, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the UK Patent Office (hereinafter, UK IPO);

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the UK IPO 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 UK IPO 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 UK IPO 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 UK IPO examiner in the UK IPO 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 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

BANNER & WITCOFF, LTD.
and ATTORNEYS FOR CLIENT NO. 006943
10 SOUTH WACKER DR.
SUITE 3000
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Patrick J. Finlay	: DECISION ON REQUEST FOR
Patent Number	: 7631786	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,280	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA
SUITE 1600
IRVINE, CA 92614-2558

Mail Date: 04/21/2010

Applicant	: Sandeep Bhatia	: DECISION ON REQUEST FOR
Patent Number	: 7613969	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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OCT 25 2007
OFFICE OF PETITIONS

In re Application of
Prakash, et al.
Application No.: 11/081,320
Filed: March 16, 2005
Attorney Docket No.: 10006.002411
For: METHOD OF DETERMINING RELATIVE Z-ORDERING IN AN IMAGE AND METHOD OF USING SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed August 23, 2007 and supplemented on August 27, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1).

As to item (1), applicants have failed to establish that David L. Cook has refused to sign the declaration or cannot be reached. A successful Rule 47 petition requires either (1) a clear refusal to join, whether expressly or by conduct, or (2) a showing of diligence in trying to find an unavailable

inventor. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. The July 20, 2007 mailing to Cook's last known address was returned unclaimed on August 13, 2007. This fact alone establishes neither diligence in trying to find the missing inventor, nor the inventor's refusal by conduct to join in the filing of the application. Cook may have been on vacation or he may have simply forgotten to pick up his mail. Another copy of the application should be mailed to his last known address.

Other attempts to reach Cook should be attempted. If the papers are returned, and other attempts to locate the inventor, e.g. through e-mail, computer searches (such as LEXIS), or the telephone continue to fail, then applicants will have established that the inventor cannot be reached.

If it is concluded by the 37 CFR 1.47 applicants that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence should be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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JAN 17 2008

OFFICE OF PETITIONS

In re Application of :
Prakash, et al. : ON PETITION
Application No.: 11/081,320 :
Filed: March 16, 2005 :
Attorney Docket No.: 10006.002411 :
For: METHOD OF DETERMINING RELATIVE :
Z-ORDERING IN AN IMAGE AND METHOD :
OF USING SAME :

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed December 27, 2007.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (2).

While petitioners have now established that David L. Cook cannot be found, a more in depth review of the application file reveals that an acceptable declaration has not been submitted. As stated in the July 23, 2007 Notice to File Corrected Application Papers, "...The previously submitted signature of the attorney for the applicant is unacceptable." The undersigned suggests

filing a declaration newly executed by the three available inventors with David L. Cook's signature block left blank.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUL 15 2008

OFFICE OF PETITIONS

OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

In re Application of
Prakash, et al.
Application No.: 11/081,320
Filed: March 16, 2005
Attorney Docket No.: 10006.002411
For: METHOD OF DETERMINING RELATIVE Z-ORDERING IN AN IMAGE AND METHOD OF USING SAME

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.47(a) and the petition to withdraw the holding of abandonment of the above-identified application. Both petitions were filed April 14, 2008 (certificate of mailing date April 7, 2008). In addition, petitioner requests that the Office accept a declaration without Inventors Prakesh and Fodor's respective signatures. That request is properly treated as a petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67, which require all inventors to execute a supplemental declaration. As Inventors Prakesh and Fodor executed the original declaration, filed March 16, 2005, any subsequently filed declaration would be a supplemental declaration for them.

The petition under 37 CFR 1.181 is **granted**.

The petition under 37 CFR 1.47(a) is **granted**.

The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **granted**.

With respect to the petition under 37 CFR 1.181: A decision on petition was mailed on January 17, 2008. The decision set forth a two month extendable period to file a reconsideration petition. On March 27, 2008, the Office mailed a Notice of Abandonment.

Petitioner requests withdrawal of the holding of abandonment because petitioner was permitted to purchase extensions of time under 37 CFR 1.136(a) to timely respond to the January 17, 2008 decision on petition.

The undersigned concurs with petitioner. The March 27, 2008 Notice of Abandonment was mailed prematurely. Petitioner purchased a one month extension of time on April 14, 2008 (certificate of mailing date April 7, 2008). Therefore, the reconsideration petition under Rule 47(a), a declaration, and a constructive petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 were timely filed on April 14, 2008 (certificate of mailing date April 7, 2008).

The petition under 37 CFR 1.181 is granted, the holding of abandonment is withdrawn, and the March 27, 2008 Notice of Abandonment is **vacated**.

With respect to the Rule 47(a) petition and the petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67:

The declaration filed on April 14, 2008 (certificate of mailing date April 7, 2008) is executed by only Edward Ratner. Adityo Prakash and Eniko Fodor have not executed the declaration, which for them, is a supplemental declaration. Petitioner has established that copies of the above-identified application and a supplemental declaration were successfully mailed to the legal representataive of Inventors Prakash and Fodor and that each did not respond to the request that he sign the supplemental declaration and return it. In view of the constructive refusal by Inventors Prakash and Fodor to sign the declaration, it is agreed that justice would be served by waiving the requirement for their signature on the declaration filed April 14, 2008 (certificate of mailing date April 7, 2008). The Rule 183 petition fee of $400.00 will be charged to deposit account no. 50-2427. The supplemental declaration (with respect to Inventors Prakash and Fordor) has been accepted, on petition, and placed in the file. The petition under 37 CFR 1.183 to waive 37 CFR 1.63 and 1.67 is **granted**.

Petitioner has shown that the non-signing inventor, David L. Cook, cannot be located to join in the filing of the above-identified application and petitioner has filed an acceptable declaration executed by the available joint inventor, Edward Ratner, on behalf of David L. Cook.

The petition under 37 CFR 1.47(a) is **granted**.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Data Management for processing into a patent.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 15 2008

OFFICE OF PETITIONS

DAVID L. COOK
6202 VISTA DEL MAR
VENICE CA 90293

In re Application of	:	
Prakash, et al.	:	LETTER
Application No.: 11/081,320	:	
Filed: March 16, 2005	:	
Attorney Docket No.: 10006.002411	:	
For: METHOD OF DETERMINING RELATIVE	:	
Z-ORDERING IN AN IMAGE AND METHOD	:	
OF USING SAME	:	

Dear Mr. Cook:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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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NOVO NORDISK, INC.
PATENT DEPARTMENT
100 COLLEGE ROAD WEST
PRINCETON, NJ 08540

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MAR 14 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Paul D. Bishop et al :
Application No. 11/081,322 :
Filed: March 16, 2005 :
Attorney Docket No. 7099.210-US :

This is a decision on the petition filed March 13, 2006, which is being treated under 37 CFR 1.313(c)(2), withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 1653 for processing of the request for continued examination under 37 CFR 1.114.

Wan Laymon
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

www.uspto.gov

Date : March 14, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

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MAR 14 2006
OFFICE OF PETITIONS

Applicant(s) : Paul D. Bishop
Application No. : 11/081,322
Filed : March 16, 2005

The above-identified application has been assigned Patent No. 7,015,197 and an issue date of March 21, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicants. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of March 21, 2006:

"All reference to Patent No. 7,015,197 to Paul D. Bishop et al of Fall City, WA for METHOD FOR INHIBITING THE FORMATION OF SEROMAS USING FACTOR XIII appearing in the Official Gazette of March 21, 2006 should be deleted since no patent was granted."

Wan Laymon
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Tamara K. Greene

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

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

MAILED

OCT 05 2009

OFFICE OF PETITIONS

In re Application of :
Ilan Berker, et al. :
Application No.: 11/081,324 :
Filed: March 15, 2005 :
Attorney Docket No.: 14917.0067US01/311022.01 :

ON PETITION

This is a decision on the petition, filed October 4, 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 8, 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]

The application is being referred to Technology Center AU 2178 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).

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

/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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04-29-10

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/081326 Patent No.: 7569490

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

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

1715
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : September 14, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from issue of **Application No. 11/081,330**

Applicant(s) : **GAAL**, et al.
Application No. : 11/081,330
Filed : March 15, 2005

The above-identified application has been assigned Patent No. 7,272,360 and an issue date of September 18, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 18, 2007:

> ***"All reference to Patent No. 7,272,360 to GAAL, et al. of San Diego, California for CHANNEL QUALITY FEEDBACK MECHANISM AND METHOD appearing in the Official Gazette of September 18, 2007 should be deleted since no patent was granted."***

Karen Glass

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kimberly Terrell
Kay Pinkney
Betty Powell

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 09/14/07

2 Serial/Patent # 11/081,330

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
	Extension of Time			$
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
X	Other Request for Continued Examination 1801	RCEX	09/13/07	$ 790.00

7 TOTAL AMOUNT OF REFUND $ 790.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 7 -- 0 0 2 6

10 REASON:

	Overpayment
X	Duplicate Payment
	No Fee Due (Explanation):

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Monica A. Graves TITLE: Paralegal Specialist

SIGNATURE: Monica A. Graves PHONE: (571) 272-7253

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: [illegible] DATE: 9/17/07

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

PTO/SB/30EFS (05/07)
Approved for use through 09/30/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

COPY

Application Number	11081330	Filing Date	2005-03-15	Docket Number (if applicable)	020248D1	Art Unit	2618
First Named Inventor	Peter Gaal			Examiner Name	Sanh D. Phu		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
- ☐ Other _____

☒ Enclosed

- ☒ Amendment/Reply
- ☒ Information Disclosure Statement (IDS)
- ☐ Affidavit(s)/ Declaration(s)
- ☐ Other _____

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 170026

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

09/17/2007 CKNLJK
00002173 170026 11081330
790.00 CR

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Signature of Registered U.S. Patent Practitioner			
Signature	/D. Scott Juneau/	Date (YYYY-MM-DD)	2007-09-13
Name	D. Scott Juneau	Registration Number	39243

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121

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SEP 1 4 2007

OFFICE OF PETITIONS

In re Application of	:	
GAAL, et al.	:	
Application No. 11/081,330	:	DECISION GRANTING PETITION
Filed: March 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **020248D1**	:	

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 August 15, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Creasy for
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.*

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

THERMO FINNIGAN LLC
355 RIVER OAKS PARKWAY
SAN JOSE CA 95134

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MAR 0 8 2006

OFFICE OF PETITIONS

In re Application of	:	
McCauley et al.	:	
Application No. 11/081,339	:	DECISION GRANTING PETITION
Filed: March 15, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1025US1/NAT	:	

This is a decision on the petition, filed February 16, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on June 30, 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. The instant application published on January 26, 2006.

This matter is being referred to Technology Center Art Unit 2881 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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MAR 03 2008

SAWYER LAW GROUP LLP
PO BOX 51418
PALO ALTO CA 94303

In re Application of	:	
Cromer, et al.	:	DECISION
Application No.: 11/081,343	:	
Filing Date: 15 March, 2005	:	
Attorney Docket No. RPS920050003US1/3450P		

This is a decision on the petition filed on 22 June, 2007, to revive an application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to Notice of Allowance/Allowability and Fees Due mailed on 26 February, 2007, with reply due under a non-extendable deadline on or before 26 May, 2007;

- the application went abandoned by operation of law after midnight 26 May, 2007;

- the Office mailed the Notice of Abandonment on 22 June, 2007;

- on 22 June, 2007, Petitioner submitted, *inter alia*, the instant petition with fee under 37 C.F.R. §1.137(a), a reply in the form of authorization for fees due (e.g., Issue Fee and Publication Fee) and averred as his statement of unavoidable delay that payment of the Fees Due was made on 24 May, 2007, however, Petitioner presents no evidentiary basis for this averment: a review of the file clearly indicates that while Petitioner submitted on 24 May, 2007, a two- (2-) page "Comments for Statement of Reasons for Allowance," he deposited with the Office only that document (he received from the Office an EFS receipt specifically so indicating), and he paid no fees on or before the due date of 26 May, 2007.

(In addition, the two- (2-) page "Comments for Statement of Reasons for Allowance" deposited by Petitioner on 24 May, 2007, was not signed.)

Thus, Petitioner has failed to satisfy the showing requirement (i.e., that he timely paid fees due) under regulations at 37 C.F.R. §1.137(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 should note that those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).
See specifically, the regulations at 37 C.F.R. §10.18.

[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a proper reply, a showing of unavoidable delay, and–where appropriate—a terminal disclaimer and fee.

Petitioner does not appear to have satisfied the "showing" requirement under the regulation.

CONCLUSION

The instant petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein 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").

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[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Petitioner may wish to refer to the guidance (as to revival of abandoned applications) found at the Office website at http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse and/or review the guidance at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[7] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Electronic Acknowledgement Receipt

EFS ID:	1810163
Application Number:	11081343
International Application Number:	
Confirmation Number:	4529
Title of Invention:	METHOD AND SYSTEM FOR CONFIGURING A COMMUNICATION CARD IN A COMPUTER SYSTEM
First Named Inventor/Applicant Name:	Daryl Carvis Cromer
Customer Number:	47052
Filer:	Erin Ming/Kym Moore
Filer Authorized By:	Erin Ming
Attorney Docket Number:	RPS920050003US1/3450P
Receipt Date:	24-MAY-2007
Filing Date:	15-MAR-2005
Time Stamp:	18:39:28
Application Type:	Utility

Payment information:

Submitted with Payment	no

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)
1	Post Allowance Communication - Incoming	3450P_ReasonforAllowance.pdf	19167	no	2

Warnings:

Information:	
Total Files Size (in bytes):	19167

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111
If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371
If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office
If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM RP-RPS
SAWYER LAW GROUP LLP
2465 E. BAYSHORE ROAD, SUITE NO. 406
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
Cromer, et al. :
Application No. 11/081,343 : DECISION
Filed: 15 March, 2005 :
Attorney Docket No. :
RPS920050003US1/3450P

This is a decision on the petition, filed on 5 March, 2008, considered as a petition under seeking to revive the application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 26 February, 2007, with reply due under a non-extendable deadline on or before 26 May, 2007.

The application went abandoned by operation of law after midnight 26 May, 2007.

The Office mailed the Notice of Abandonment on 22 June, 2007;

On 22 June, 2007, Petitioner submitted, *inter alia*, a petition with fee under 37 C.F.R. §1.137(a), a reply in the form of authorization for fees due (e.g., Issue Fee and Publication Fee) and averred as his statement of unavoidable delay that payment of the Fees Due was made on 24 May, 2007, however, Petitioner presents no evidentiary basis for this averment: a review of the file clearly indicates that while Petitioner submitted on 24 May, 2007, an executed two- (2-) page "Comments for Statement of Reasons for Allowance," he deposited with the Office only that document (he received from the Office an EFS receipt specifically so indicating), and he paid no fees on or before the due date of 26 May, 2007—thus the petition was dismissed on 3 March, 2008. (Petitioner has since sought a refund of the petition fee, however, Petitioner is reminded that the fee is jurisdictional and no substantive consideration would have been given in the absence of Petitioner's satisfaction of the fee requirement of the regulation.)

On 5 March, 2008, Petitioner filed the instant petition with fee, pointed to the previously filed a reply in the form of fees due, and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Publications Branch to be processed into a patent in due course.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/081,354	03/16/2005	2878	2080	KYRA-2120	4	23	7

CONFIRMATION NO. 8493

UPDATED FILING RECEIPT

OC000000015904375

28584
STALLMAN & POLLOCK LLP
SUITE 2200
353 SACRAMENTO STREET
SAN FRANCISCO, CA 94111

Date Mailed: 04/28/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gregory C. Walsh, Walnut Creek, CA;
Ralph Storz, Danville, CA;
Alan Aindow, Alameda, CA;

Power of Attorney: The patent practitioners associated with Customer Number **28584**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/553,860 03/16/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/081,354

Projected Publication Date: 09/22/2005

Non-Publication Request: No

Early Publication Request: No

Title

Laser operation for survey instruments

Preliminary Class

250

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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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Joey K. Underwood	: DECISION ON REQUEST FOR
Patent Number	: 7581260	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,362	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1117** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Stephen Ackerman
George O Saile and Associates
28 Davis Avenue
Poughkeepsie, NY 12603

COPY MAILED
AUG 11 2008

In re Application of	:	
Krishnasamy Anadakumar, et al.	:	
Application No. 11/081,363	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. JA05-002D	:	FROM RECORD
	:	

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 26, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen Ackerman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 7, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Krishnasamy Anadakumar**
10445 Pacific Center
San Diego, CA 92121

cc: **Jaalaa, Inc.**
Attn: Chris Alford
3950 Sorrento Valley Blvd.
San Diego, CA 92121

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,363	03/16/2005	Krishnasamy Anandakumar	JA05-002D

CONFIRMATION NO. 8450

POWER OF ATTORNEY NOTICE

ACKERMAN, STEPHEN
George O Saile and Assocs
28 Davis Ave
Poughkeepsie, NY 12603

OC000000031491666

Date Mailed: 08/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/26/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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14252 CULVER DR. BOX 914
IRVINE, CA 92604

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JAN 05 2007

OFFICE OF PETITIONS

In re Application of	:	
BUI et al	:	
Application No.: 11/081,366	:	DECISION ON PETITION
Filing Date: March 16, 2005	:	UNDER 37 CFR 1.137(B)
Attorney Docket No.: ED 253131649 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to file a proper reply to the Notice to File Corrected Application Papers mailed May 11, 2005, which set a two month period for reply. Accordingly, by operation of law, the above-identified application became abandoned on July 12, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121(d); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Corrected Application Papers is accepted as having been unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

PATENTMETRIX
14252 CULVER DR BOX 914
IRVINE CA 92604

In re Application of	:	
Bui, et al.	:	
Application No. 11/081,366	:	ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. UDT105.Ord	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed October 16, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action, mailed August 19, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on November 20, 2008. The Office mailed a Notice of Abandonment on March 10, 2009.

With the instant petition, applicant made the proper statement of unintentional delay, paid the petition fee, and filed the required reply in the form of an Amendment.

The application is being forwarded to Group Art Unit 2811 for consideration of the Amendment, filed October 16, 2009.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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SAILE ACKERMAN LLC
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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JAN 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Martin George MORRIS, et al	:	
Application No. 11/081,376	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. JA05-001A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 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 Stephen B. Ackerman on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the 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: MARTIN GEORGE MORRIS
1055 CREST VIEW RD.
VISTA, CA 92081

cc: JAALAA, INC.
ATTN : CHRIS ALFORD
3950 SORRENTO VALLEY BLVD.
SAN DIEGO, CA 92121

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,376	03/16/2005	Martin George Morris	JA05-001A

CONFIRMATION NO. 6329

POWER OF ATTORNEY NOTICE

28112
SAILE ACKERMAN LLC
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

OC000000027935250

Date Mailed: 01/28/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/13/2007.

- 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 IAP78
NOV 1 3 2007
PATENT & TRADEMARK OFFICE

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/081,376
Filing Date	03/16/2005
First Named Inventor	Morris, Martin
Art Unit	2184
Examiner Name	Roche, John B.
Attorney Docket Number	JA05-001A

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Please withdraw me as attorney or agent for the above identified patent application, and

- [x] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [ ] the attorneys/agents associated with Customer Number

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Applicant has failed to pay one or more bills rendered by practitioner for an unreasonable period of time.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [x] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	Jaalaa, Inc. Attn: Chris Alford				
Address	3950 Sorrento Valley Blvd.				
City	San Diego	State	CA	Zip	92121
Country	USA				
Telephone	(858) 457-7658	Email			
Signature	SBA				
Name	Stephen B. Ackerman	Registration No.	37,761		
Date	11/9/07	Telephone No.	(845) 452-5863		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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GEORGE O. SAILE AND ASSOCS
28 DAVIS AVE
POUGHKEEPSIE, NY 12603

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JUL 21 2008

In re Application of	:	
Martin George Morris, et al.	:	
Application No. 11/081,380	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. JA05-001B	:	FROM RECORD
	:	

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 7, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Stephen B. Ackerman 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).

There is an outstanding Office action mailed July 10, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARTIN GEORGE MORRIS
1055 CREST VIEW ROAD
VISTA, CA 92081

cc: JAALAA, INC.
ATTN: CHRIS ALFORD
3950 SORRENTO VALLEY BLVD.
SAN DIEGO, CA 92121

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,380	03/16/2005	Martin George Morris	JA05-001B

CONFIRMATION NO. 6325

POWER OF ATTORNEY NOTICE

George O Saile and Assocs
28 Davis Ave
Poughkeepsie, NY 12603

OC000000031012693

Date Mailed: 07/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/07/2008.

- 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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STEPHEN B. ACKERMAN
28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

In re Application of	:	
Martin Morris	:	
Application No. 11/081,381	:	DECISION ON PETITION
Filed: March 24, 2006	:	TO WITHDRAW
Attorney Docket No. JA05-001D	:	FROM RECORD
	:	

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 10, 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 Stephen B. Ackerman 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).

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: MARTIN MORRIS
1055 CREST VIIEW ROAD
VISTA, CA 92081

cc: JAALAA INC.
ATTN CHRIS ALFORD
3950 SORRENTO VALLEY BLVD.
SAN DIEGO, CA 92121

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,381	03/16/2005	Martin George Morris	JA05-001D

CONFIRMATION NO. 6336

George O Saile and Assocs
28 Davis Ave
Poughkeepsie, NY 12603

POWER OF ATTORNEY NOTICE

OC000000030592201

Date Mailed: 06/20/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/10/2007.

- 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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OFFICE OF PETITIONS

In re Application of	:	
Lev Korzinov et al	:	
Application No. 11/081,401	:	DECISION GRANTING PETITION
Filed: March 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16491-034001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 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 November 12, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3762 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JUN 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Lev Korzinov et al	:	
Application No. 11/081,401	:	DECISION GRANTING PETITION
Filed: March 15, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16491-0034001	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 4, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 0 4 2008

OFFICE OF PETITIONS

In re Application of

HALLER, Matthew I. et al.
Application No. 11/081,417
Filed: March 15, 2005
Attorney Docket No. **17991-059001 / 05-01183-0**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 15, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ownership does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/081,436	03/16/2005	David L. Brumfield	MSDI-32/PC1046.00	4925

52196 7590 06/18/2010
MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

EXAMINER
MERENE, JAN CHRISTOP L

ART UNIT	PAPER NUMBER
3733	

MAIL DATE	DELIVERY MODE
06/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132

In re Application of:
BRUMFIELD, DAVID L.
Serial No.: 11/081,436
Filed: March 16, 2005
Docket: MSDI-32/PC1046.00
Title: SYSTEMS, KITS AND METHODS FOR TREATMENT OF THE SPINAL COLUMN USING ELONGATE SUPPORT MEMBERS

DECISION ON PETITION

This is a decision on the petition filed on June 14, 2010 seeking withdrawal of the finality of the Office action mailed April 14, 2010. This petition is being considered pursuant to 37 CFR §1.181. No fee is required.

The petition is dismissed.

In the petition, petitioner stated that the rejection of the dependent claim 31 constitutes a new ground of rejection. A comparison of the Non-final Office Action rejection of claim 31 mailed September 25, 2009 and the final rejection of claim 31 mailed on April 12, 2010 does not show any substantive discrepancy. The bodies of the paragraphs describing the rejection of claim 31 in both Office Actions are the same, verbatim, with the exception of the "heading". It is noted the patentee's name, Gaines, was, at first, omitted in the first line of the rejection of claim 31. (See paragraph 21 at page 25 of the Non-final Office Action mailed on September 25, 2009).

It is obvious that the omission of the *Gaines* patent from the first line of paragraph 21 in the Non-final Office Action, rejecting claim 31, was a typographical error; the word "and" dangles at the end of the first sentence of paragraph 21. The body of the paragraph (¶ 21 in the Non-final Office Action and ¶ 22 in the Final Office Action) does state how "in view of Gaines" over the other references, the claim would have been obvious to one of ordinary skill in the art. Nothing is unclear or uncertain about this rejection.

Other references are made by Examiner to the *Gaines* patent as it is used to reject other claims. For example, claims 29 and 33 are rejected in view of *Gaines*, among other patents, in the very next paragraph of the Non-final Office Action mailed September 25, 2009. (¶ 22)

It is noted that the Applicant acknowledges *Gaines* in his response to the Office Action filed January 4, 2010, page 21. In fact, in his argument of claim 25, Applicant asserted that it was patentable over a "Rogozinski/Kambin/Schafer/**Gaines** combination". However, claim 25 was rejected, in the Non-final Office Action, only with reference to "*Kambin* in view of *Schafer*". Claim 31 is dependant on claim 25. Applicant was clearly aware of how the *Gaines* patent applied against the claim for the patentability determination of his invention.

Because the omission of "Gaines" from the heading of the paragraph rejecting claim 31 was only a typographical error; the paragraph was otherwise complete, clear, and comprehensible; and petitioner clearly knew how the "omitted" reference was applied against his claimed invention, the finality of the Office Action mailed April 14, 2010 was proper.

Conclusion

Since the applicant presented no claim amendment in the Rule 111 amendment filed on January 4, 2010 and there is no change in the contents of the final rejection of April 12, 2010, the finality of the last Office action mailed April 12, 2010 is proper. The requested relief will not be granted.

The application is being forwarded to the examiner via the SPE of Art Unit 3735 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Robert Olszewski, Director
Technology Center 3700

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RESEARCH TRIANGLE PARK NC 27709

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application No. 11/081,439	:	ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 2771-730 (7494)	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 21, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 1700 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MOTOROLA, INC.
LAW DEPARTMENT
600 NORTH U.S. HIGHWAY 45
AS437
LIBERTYVILLE, IL 60048

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AUG 21 2008

OFFICE OF PETITIONS

In re Application of	:	
McLain et al.	:	
Application No. 11/081,447	:	DECISION ON PETITION
Filed March 16, 2005	:	
Attorney Docket No. IS01882ESG	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 5, 2007, as required by the Notice of Allowance and Fee(s) Due mailed September 5, 2007. Accordingly, the date of abandonment of this application is December 6, 2007. A Notice of Abandonment was mailed January 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 payment of the issue fee of $1,440.00 and the publication fee of $300.00, (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Anthony P. Curtis
Law Department
1301 E. Algonquin Road
Schaumburg, IL 60196

UNITED STATES PATENT AND TRADEMARK OFFICE

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Douglas A. Yerkeson
Baker & Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204

Mail Date: 04/20/2010

Applicant	: Raymond A. Vincent	: DECISION ON REQUEST FOR
Patent Number	: 7614096	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,457	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **532** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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In re Application of	:
Eric Best, et al.	:
Serial No.: 11/081,493	: PETITION DECISION
Filed: March 16, 2005	:
Attorney Docket No.: 674589-2001	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 06, 2005. 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**.

LONG V. LE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600
AU. 1641

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/081,526	03/17/2005	Shinichi Hirata	267862US6CONT	4456

22850 7590 02/04/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
SONG, HOSUK

ART UNIT	PAPER NUMBER
2135	

NOTIFICATION DATE	DELIVERY MODE
02/04/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Bradley D. Lytle
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
Shinichi Hirata
Application No. 11/081,526
Filed: March 17, 2005
For: A transmitting/receiving apparatus and a transmitting/receiving method

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed on May 9, 2008 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider references "AR", "AS" and "AT" listed on the Form PTO-1449 filed with the Information Disclosure Statement (IDS) on March 17, 2005.

The petition is **Dismissed as moot**.

BACKGROUND

The March 17, 2005 IDS was filed under 37 CFR 1.97(c) and does meet the requirements of both rules 1.97 and 1.98 so consideration by the examiner is warranted. The examiner has considered the references "AR", "AS" and "AT" and a signed, initialed and dated 1449 has been scanned into IFW as of October 27, 2008. As applicant's relief has already been receive the petition is moot and therefore dismissed.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
WorkGroup QAS
Technology Center 2400

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALLEN A. MEYER JR. ESQ.
P.O. BOX 5251
GREENWICH, CT 06831

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JAN 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Bromberg et al.	:	
Application No. 11/081,532	:	ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. ASW-1-CONT2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 17, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment and a Terminal Disclaimer; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2100 for further examination on the merits.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

03500.101709 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	)	Examiner: Ryan D. Walsh
	:	
Takehiro Kishi	)	Group Art Unit: 2852
	:	
Appl. No.: 11/081,553	)	Confirmation No.: 5315
	:	
Filed: March 17, 2005	)	Patent No.: 7,221,894 B2
	:	
For: IMAGE FORMING APPARATUS WHICH PREVENTS MISREGISTRATION	)	Issue Date: May 22, 2007
	:	
	)	January 8, 2008

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attention: CERTIFICATE OF CORRECTION BRANCH

REQUEST FOR CERTIFICATE OF CORRECTION
UNDER RULES 322 AND 323

Sir:

It is respectfully requested that a Certificate of Correction be issued by the Patent and Trademark Office due to errors which appear in the printed patent as a result of Patent and Trademark Office mistakes, and mistakes of a clerical, typographical, or minor character, which were not the fault of the Patent and Trademark Office. A Certificate of Correction form (Form PTO-1050) is enclosed.

The $100.00 fee for the Certificate of Correction is being paid electronically. However, the Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1205.

Patentee's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/ William M. Wannisky /

William M. Wannisky
Attorney for Patentee
Registration No. 28,373

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
Facsimile: (212) 218-2200

WMW/kag

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PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,221,894 B2

DATED : May 22, 2007

INVENTOR(S) : Takehiro Kishi

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

ON THE TITLE PAGE:

At Item (75), INVENTOR, "Takehiro Kishi, Tokyo (JP)" should read --Takehiro Kishi, Toride-shi (JP)--.

COLUMN 1:

Line 23, "born" should read --borne--.
Line 42, "born" should read --borne--.
Line 54, "born" should read --borne--.

COLUMN 2:

Line 22, "born" should read --borne--;
Line 41, "a-predetermined" should read --a predetermined--; and
Line 49, "image the" should read --image on the--;

COLUMN 4:

Line 4, "along" should read --along with--.

COLUMN 5:

Line 62, "the-intermediate" should read --the intermediate--.

COLUMN 6:

Line 15, "materials" should read --material--; and
Line 55, "after" should read --after being--.

COLUMN 7:

Line 19, "belt 6" should read --belt 20--; and
Line 20, "belt 6" should read --belt 20--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,221,894 B2

No. of add'l. copies
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/RW/

04/24/2008

Form PTO 1050 (Rev. 3-82)

WMW/kag FCHS_WS 1875254v1

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,221,894 B2

DATED : May 22, 2007

INVENTOR(S) : Takehiro Kishi

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 8:

Line 39, "each" should read --each of the--;
Line 54, "tat the" should read --at--.

COLUMN 12:

Line 3, "calendar" should read --calender--;
Line 21, "become" should read --becomes--;
Line 38, "($^1/_1$)" should read --$^1/_1$--; and
Line 55, "sued" should read --used--.

COLUMN 13:

Line 8, "layer 21" should read --layer 22--.

COLUMN 14:

Line 14, "born." should read --borne.--;
Line 24, "born" should read --borne--;
Line 28, "born" should read --borne--;
Line 42, "station MY," should read --station PM--;
Line 47, "born" should read --borne--; and
Line 50, "portion TM." should read --portion TK--.

COLUMN 15:

Line 19, "born" should read --borne--;
Line 24, "born" should read --borne--;
Line 43, "born" should read --borne--;
Line 44, "baring" should read --bearing--; and
Line 64, "belt 20," should read --belt 60,--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,221,894 B2

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,221,894 B2

DATED : May 22, 2007

INVENTOR(S) : Takehiro Kishi

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

COLUMN 17:

Line 11, "EM" should read --EK--.

COLUMN 18:

Line 16, "recording-material bearing belt 60." should read --electrostatic image bearing belt 70.--; and

Line 41, "image forming stations and developed." should read -image forming stations. And the latent image is developed by toners.--.

COLUMN 20:

Line 18, "born" should read --borne--; and

Line 25, "born" should read --borne--.

MAILING ADDRESS OF SENDER:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3800
(212) 218-2100 - Telephone
(212) 218-2200 - Facsimile

PATENT NO. 7,221,894 B2

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04/24/2008

Form PTO 1050 (Rev. 3-82)

WMW/kag FCHS_WS 1875254v1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 5/24/06

TO SPE OF : ART UNIT 2652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/081567 Patent No.: 6983473B2

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: In printing process, the paragraphs were lost. It should be added to correct the printing error

HOA T. NGUYEN
SUPERVISORY PATENT EXAMINER
~~TECHNOLOGY CENTER 2600~~
SPE

2627
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 6,983,473

DATED: January 3, 2006

INVENTOR(S): Yasuo OSADA, et al.

It is certified that an error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In claim 1, column 15, after line 5, add next paragraphs:

"wherein the elastic displacement portion is bent from a direction substantially parallel to an axial direction of the supporting shaft to a direction substantially orthogonal to the axial direction of the supporting shaft thereby energinzing the engagement portion in the radial direction of the supporting shaft;

a first rack portion provided on the optical pickup;

a slide member having an opening/closing portion for opening/closing a facing surface of the objective lens to the optical disc, and a second rack portion provided to be slidable on the first rack portion ; and

a driving mechanism having a driving gear which meshes with the first rack portion and the second rack portion;"

Mailing address of sender:

Customer Number

22850

Tel. (703) 413-3000
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(OSMMN 03/02)

Patent No. 6,983,473

No. of add'l copies
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10/081567

OIPE IAP56
MAY 16 2006
PATENT & TRADEMARK OFFICE

Docket No.: 267806US6CONT

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ATTORNEYS AT LAW

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

RE: U.S. Patent No.: 6,983,473
Applicants: Yasuo OSADA, et al.
Issued Date: January 3, 2006
For: OPTICAL PICKUP DEVICE AND RECORDING AND/OR REPRODUCING DEVICE
Group Art Unit: 2652
Examiner: CHEN, TIANJIE

Certificate
MAY 18 2006
of Correction

SIR:

Attached hereto for filing are the following papers:

REQUEST FOR CERTIFICATE OF CORRECTION
CERTIFICATE OF CORRECTION - PTO FORM 1050 (IN DUPLICATE)

Our check in the amount of **$0.00** is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Joseph Scafetta Jr.

Bradley D. Lytle
Registration No. 40,073
Joseph Scafetta, Jr.
Registration No. 26,803

Customer Number
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MAY 18 2006

DOCKET NO.: 267806US6CONT

OIPE IAP56
MAY 16 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Yasuo OSADA, et al.

PATENT NO.: 6,983,473 GROUP: 2652

ISSUED: January 3, 2006 EXAMINER: CHEN, TIANJIE

FOR: OPTICAL PICKUP DEVICE AND RECORDING AND/OR REPRODUCING DEVICE

REQUEST FOR CERTIFICATE OF CORRECTION

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
ALEXANDRIA, VA 22313-1450

SIR:

The following is a Request for Certificate of Correction in Serial Number 11/081,567, now U.S. Patent Number 6,983,473.

In accordance with the provisions of Rule 322 of the Rules of Practice, which implement 35 USC 254, the U.S. Patent and Trademark Office is respectfully requested to issue a Certificate of Correction in the above-identified patent.

In light of the fact that the errors were the fault of the U.S. Patent and Trademark Office, no fees are required. The requested corrections are listed on FORM P.T.O. 1050.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Joseph Scafetta Jr.

Bradley D. Lytle
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(OSMMN 03/06)
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MAY 18 2006

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P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 21 2005

BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

In re application of	:	**DECISION ON PETITION**
Andrew L. Berger, et al	:	**TO MAKE SPECIAL**
Application No. 11/081,572	:	**(INFRINGEMENT)**
Filed: March 16, 2005	:	
For: EXPANDABLE DRAWER ORGANIZER		

This a decision on the petition under 37 C.F.R § 1.102(d) filed March 16, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement

MPEP 708.02 states that a Petition to Make Special based on Infringement must have the following: (1) the appropriate petition fee under 37 CFR 1.17(i); (2) a statement by the assignee, applicant, or attorney alleging: (A) that there is an infringing device or product actually on the market or method in use; (B) that a rigid comparison of the alleged infringing device, product or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and (C) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed March 16, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 10/11/05

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Paper No.

CARDINAL LAW GROUP, LLC
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1603 ORRINGTON AVENUE
EVANSTON IL 60201

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OFFICE OF PETITIONS

In re Application of	:	
Andrew L. Berger	:	DECISION ON PETITION
Application No. 11/081,572	:	PURSUANT TO
Filed: March 16, 2005	:	37 C.F.R. § 1.182
Attorney Docket No. 40405-99820	:	
Title: EXPANDABLE DRAWER	:	
ORGANIZER	:	

This is in response to the petition filed on November 20, 2007, pursuant to 37 C.F.R. § 1.182, requesting the withdrawal of a terminal disclaimer.

On March 14, 2007, a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection over U.S. Patent No. 7,066,563 in a non-final Office action mailed January 9, 2007[1]. With this petition, it has been set forth that "Applicant has cancelled all claims that had been subject to the double patenting rejection...the double patenting rejection has been obviated by cancellation." As such, it has been asserted on petition that the terminal disclaimer is no longer proper.

The petition fee will be charged to Petitioner's Deposit Account in due course. The Examiner reviewed the request to withdraw the terminal disclaimer, and has determined that the previously filed terminal disclaimer should be withdrawn.

As such, this petition is **GRANTED**.

---

1 See rejection of claims 20, 22, and 23 on page 7 of the non-final Office action.

The Technology Center will be notified of this decision. **The Technology Center's support staff will withdraw the Terminal Disclaimer, consistent with this decision,** prior to notifying the Examiner of this decision so that the present application can receive further processing.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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.

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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AUG 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Nakamura et al. :
Application No. 11/081,587 :
Filed: March 17, 2005 : ON PETITION
Attorney Docket Number: :
Q84681 :

This is a decision on the Petition to Withdraw Notice of Incomplete Nonprovisional Application and to Award Filing Date of March 17, 2005, and Request for Refund of Petition Fee, filed July 6, 2005, requesting the above-identified application be accorded a filing date of March 17, 2005.

The petition is granted.

The application was filed on March 17, 2005. On May 6, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice"), informing Applicant that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition and avers that drawings are not necessary for the understanding of the subject matter sought to be patented.

A review of the file by this Office reveals that Petitioner is correct. Accord MPEP § 601.01(f).

MPEP § 601.01(f) states that:

> A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an

> application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

This application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In applications filed without all of the drawing figure(s) referred to in the specification, the MPEP § 601.01(g) states that a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification. (Emphasis supplied).

In view of the above, the Notice mailed May 6, 2005, was mailed in error and is hereby withdrawn.

This application is being forwarded to the Office of Initial Patent Examination, Customer Corrections, for further processing with the filing date of March 17, 2005, and an indication that no drawings were required or present on filing.

A refund of the petition fee has been credited to deposit account 19-4880 as authorized in the instant petition.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:
Richard J. Helferich	:
Application No. 11/081,611	: DECISION GRANTING PETITION
Filed: March 17, 2005	: UNDER 37 CFR 1:313(c)(2)
Attorney Docket No. 0101-153	:

This is a decision on the petition, filed February 28, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 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]

The petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Mr. James David Busch 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. Although the petition states that applicant has recently retained new counsel, the appropriate power of attorney documents have not been submitted. Therefore, if Mr. Busch desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Busch, 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.

---

[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.*

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

James David Busch
Law Offices of Steven G. Lisa, Ltd.
55 West Monroe Street, Suite 3200
Chicago, IL 60603

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JON E. KAPPES
LAW OFFICES OF STEVEN G. LISA, LTD.
C/O INTELLEVATE, LLC.
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Richard J. Helferich	:	
Application No. 11/081,611	:	DECISION GRANTING PETITION
Filed: March 17, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. I-W2W-11081611	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 24, 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 9, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Creasy

Karen Creasy
Petitions Examiner
Petitions Examiner

cc: **Law Offices of Steven G. Lisa, Ltd.**
55 West Monroe Street, Suite 3200
Chicago, IL 60603

---

[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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BRAKE HUGHES BELLERMANN LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/20/2010

Applicant	: Brandon Carl Smith	: DECISION ON REQUEST FOR
Patent Number	: 7606231	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,644	: 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 **553** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 : Brandon Carl Smith
Patent Number : 7606231
Issue Date : 10/20/2009
Application No : 11/081,644
Filed : 03/17/2005

: 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 **585** 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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,519,817
Issued: April 14, 2009
Application No. 11/081,688
Filed: March 17, 2005
Attorney Docket No. 07781.0235-00

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT" filed May 6, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from eight hundred twenty-five (825) days to one thousand sixty-three (1063) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On April 14, 2009, the above-identified application matured into US Patent No. 7,519,817 with a patent term adjustment of 825 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 1063 days, which includes an additional 393 days due to exceeding three year pendency.

The 393-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 17, 2005 and the patent having been issued on April 14, 2009, three years and 393 days later. Patentees assert that in addition to this 393 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 825 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. delay.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay to the issuance of the patent (393 days) and the period of Examination Delay (825 days) to the extent that these periods of delay are not overlapping. Patentees contend that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.702(b), 155 of the 393 days, overlaps with the period of delay of 825-day period of adjustment due to Examination Delay, pursuant to 37 CFR 1.702(a).

Accordingly, patentees submit that the total period of Office Delay is 1063 days, which is the sum of the period of Three Year Delay (393 days) and the period of Examination Delay (825 days), reduced by the period of overlap (155 days). As such, patentees assert entitlement to a patent term adjustment of 1063 days (393 + 825 reduced by 155 overlap -0 for applicant delay).

Thus, as of the issuance of the patent on April 14, 2009, the application was pending three years and 393 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a period of adjustment of 825 days was entered. At issue is whether patentees should accrue 393 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 825 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 393 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, March 17, 2005, to the date the patent issued on April 14, 2009. Prior to the issuance of the patent, 825 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 393 days for Office delay in issuing the patent overlap with the 825 days of Office delay. During that time, the issuance of the patent was delayed by 825 days, not 825 + 393 days. The Office experienced 825 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 825 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 393 days. The Office did not delay 825 days and then an

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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).

additional 393 days. Accordingly, 825 days of patent term adjustment (not 825 and 393 days) was properly entered since the period of delay of 393 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 825 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 825 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 393 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, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SYNTHON IP INC
P.O. BOX 1364
FAIRFAX VA 22038-1364

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JUN 14 2010

OFFICE OF PETITIONS

In re Application of
Overeem et al.
Application No. 11/081,689
Filed: March 17, 2005
Attorney Docket No. SYN-0064

DECISION ON PETITION

This is a decision on the petition, filed February 26, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed January 28, 2010. The Notice of Abandonment indicates that the abandonment was as a result of the failure to receive a reply to the advisory action of March 20, 2009.

However a review of the record shows that applicants timely submitted an Appeal brief on January 21, 2009. The Notification of Non Compliant Appeal Brief, which was mailed on February 24, 2009, was withdrawn on March 17, 2009. Thus, the appeal brief was deemed to be compliant. As such an additional reply is not required.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The address on the petition varies from the correspondence address of record. If appropriate a change of address should be provided. A courtesy copy is being provided.

This application is being referred to Technology Center AU 1625 for appropriate action in the normal course of business on the appeal brief.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Muncy, Geissler, Olds & Lowe, PLLC, P.O. Box 1364, Fairfax, VA 22038

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

COPY MAILED
AUG 16 2006
OFFICE OF PETITIONS

In re Application of	:
Kaplan et al.	:
Application No. 11/081,719	: DECISION ON PETITION
Filed: 17 March, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KAP 21.887	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed 24 May, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on 17 March, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/627,983, which was filed on 15 November, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 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).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1370.00 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 50-1290.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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JAN 0 3 2007

OFFICE OF PETITIONS

In re Application of	:	
Kaplan et al.	:	
Application No. 11/081,719	:	DECISION ON PETITION
Filed: 17 March, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KAP 21.887	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed 22 August, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to the prior-filed provisional application set forth in the amendment filed with the petition.

The petition is again **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119 and 37 CFR 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Applicants filed a renewed petition under 37 CFR 1.78(a)(6) accompanied by an amendment to the specification. In the amendment to the specification, applicants indicated: "This application is a continuation application of, and claims priority to, provisional U.S. application Serial No. 60/627,983 filed on November 15, 2004."

The renewed petition must be dismissed because applicants have not presented a proper claim of benefit under 37 CFR 1.78(a)(5). Specifically, a benefit claim that includes a relationship such as "a continuation" is considered a claim under 35 U.S.C. § 120, not under § 119(e). See 37 CFR 1.78(a)(2)(i) and MPEP 201.11. As 37 CFR 1.78(a)(5)(i) requires only a reference to the

prior-filed application, a statement of relationship pursuant to 37 CFR 1.78(a)(2)(i) would not be appropriate in a petition filed under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. § 119(e). As such, the claim presented is not a proper claim under 37 CFR 1.78(a)(5)(ii).

Petitioners should submit a renewed petition, including a proper reference as required by 37 CFR 1.78(a)(5)(i) to the prior-filed provisional application, (*i.e.*, an ADS or an amendment to the first line of the specification).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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APR 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Kaplan et al.	:	
Application No. 11/081,719	:	DECISION ON PETITION
Filed: 17 March, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KAP 21.887	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed on 29 January, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Receipt of the Revocation and Power of Attorney filed concurrently with the present petition is acknowledged.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2143 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt
Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/081,719	03/17/2005	2143	990	KAP 21.887	33	4

CONFIRMATION NO. 5193

CORRECTED FILING RECEIPT

OC000000023488600

23719
KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK, NY 10022

Date Mailed: 04/23/2007

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)

Mark Mitchell Kaplan, Chicago, IL;
Colin Ran, Brooklyn, NY;

Power of Attorney: The patent practitioners associated with Customer Number **23719**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/627,983 11/15/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/081,719

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System and method to simultaneously transcode audio and video content for optimized streaming via mobile telecommunications

Preliminary Class

709

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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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,719	03/17/2005	Mark Mitchell Kaplan	KAP 21.887

CONFIRMATION NO. 5193

OC000000023487157

23719
KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK, NY 10022

Date Mailed: 04/20/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2007.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,719	03/17/2005	Mark Mitchell Kaplan	KAP 21.887

CONFIRMATION NO. 5193

OC000000023487124

26304
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

Date Mailed: 04/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/29/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

D Wood

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

NEW ATTORNEY/AGENT COPY

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WASHINGTON, DC 20231
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Katten Muchin Rosenman, LLP.
575 Madison Avenue
New York, NY 10022-02585

MAILED

APR 27 2007

Technology Center 2100

In re Application of: Moses et al.
Application No. 11/081719
Filed: March 17, 2005
For: System and Method to Simultaneously Transcode Audio and Video Content For Optimized Streaming via Mobile Telecommunications

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition, filed May 27, 2005 under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first

renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submissions of May 27, 2005 meet the criteria set forth above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Tod Swann
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and
Information Security

Cc: David A. Kalow
Kalow & Springut, LLP
488 Madison Avenue, 19th Floor
New York, New York 10022

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MAY 26 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington, DC 20006-5403

In re Application of Kimura et al. :
Application No. 11/081,746 :
Filing Date: March 17, 2005 :
Attorney Docket No. R2184.0391/P391 :

On Application For
Patent Term Adjustment

This is in response to the "Request for Reconsideration Under 37 C.F.R. 1.705(b) of Patent Term Adjustment Determination" filed January 8, 2010. Applicants submit the correct patent term adjustment to be indicated on the patent is one thousand four hundred thirty-four (1,434), not one thousand fifty (1,050) as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 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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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES, CA 90071-1448

Mail Date: 04/21/2010

Applicant	: Plaridel Cerna Atil	: DECISION ON REQUEST FOR
Patent Number	: 7666172	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,767	: OF WYETH
Filed	: 03/15/2005	:
		:

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:
Sun, et al.	:
Application No. 11/081,772	: DECISION ON PETITION
Filed: March 15, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 42P20613	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 27, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35

U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Any questions concerning this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Christina T. Donnell for

Fran Hicks
Lead Petitions Examiner
Office of Petitions

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12400 WILSHIRE BOULEVARD
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LOS ANGELES, CA 90025-1030

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of	:
Sun, et al.	:
Application No. 11/081,772	: DECISION ON PETITION
Filed: March 15, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 42P20613	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. 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 1797 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

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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
11/081,772	03/15/2005	1797	3440	42P20613	45	6

CONFIRMATION NO. 5253

CORRECTED FILING RECEIPT

8791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

OC000000027296664

Date Mailed: 12/14/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Lei Sun, Santa Clara, CA;
Xing Su, Cupertino, CA;
Mineo Yamakawa, Campbell, CA;
Zhang Jingwu, San Jose, CA;
Narayan Sundararajan, San Francisco, CA;

Power of Attorney: The patent practitioners associated with Customer Number 45209

Domestic Priority data as claimed by applicant

This application is a CIP of 10/940,698 09/13/2004
which is a CIP of 10/916,710 08/11/2004
which is a CIP of 10/830,422 04/21/2004 ABN
which is a CIP of 10/748,336 12/29/2003 ABN
This application 11/081,772
is a CIP of 11/021,682 12/23/2004
which is a CIP of 10/830,422 04/21/2004 ABN
which is a CIP of 10/748,336 12/29/2003 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/081,772**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Composite organic inorganic nanoclusters

Preliminary Class

436

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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TECHNOLOGY CENTER 2100

03/03/09

Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of: Hideyuki WATANABE
Application No. 11/081,774
Attorney Docket No. 268181US2
Filed: March 17, 2005
For: NETWORK CONTROL DEVICE FOR AN IMAGE FORMING APPARATUS THAT ENABLES A NETWORK FILTER DURING A GRACE TIME BEFORE ENTERING AN ENERGY SAVING MODE

DECISION ON PETITION FOR CONSIDERATION OF INFORMATION DISCLOSURE STATEMENT *UNDER 37 CFR 1.181*

This is in response to the petition filed on February 19, 2009, under 37 CFR §1.181 requesting consideration of the Information Disclosure Statement (IDS) indicated to have been submitted on February 11, 2009.

A petition under this section must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. The petition filed February 19, 2009 includes elements (1) and (2) above.

The petition is **DISMISSED-as-MOOT**.

RELIEF REQUESTED

The instant petition under 37 CFR 1.181 requests that the Information Disclosure Statement (IDS) filed February 11, 2009 be considered by the Examiner.

ANALYSIS

The following relevant sections are cited in-part below for consideration:

§ 1.97 Filing of information disclosure statement.

(d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:

(1) The statement specified in paragraph (e) of this section; and

(2) The fee set forth in § 1.17(p).

(e) A statement under this section must state <either>:

> **(1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement;**
>
> **609 [R-7] Information Disclosure Statement**
> **The initials of the examiner placed adjacent to the citations on the PTO/SB/08A and 08B or its equivalent mean that the information has been considered by the examiner to the extent noted above.** ***In addition, the following alternative electronic signature method may be used by examiners in information disclosure statements to indicate whether the information has been considered. Examiners will no longer initial each reference citation considered, but will continue to strikethrough each citation not considered. Each page of reference citations will be stamped by the examiner with the phrase "All references considered except where lined through" along with the examiner's electronic initials, and the final page of reference citations will include the examiner's electronic signature.*** **[[emphasis added]]**

The information disclosure statement filed on February 11, 2009 includes both items set forth above. A copy of the cited reference is also provided.

In accordance with MPEP 609, "once the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98 are met, the examiner has an obligation to consider the information". Since the IDS was therefore timely submitted to the USPTO, the reference listed thereon (along with related applications) is entitled to consideration in accordance with MPEP 609 and 37 CFR §1.97(d). In accordance with current Office practice and procedures (noted above), the Examiner properly considered cited JA 2001-075687 designated reference AO on PTO form 1449 submitted on February 11, 2009 (see copy mailed February 19, 2009, as well as attached copy for Applicant's convenience).

CONCLUSION

Accordingly, the petition is **DISMISSED-as-MOOT**.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson
Quality Assurance Specialist, WG 2110
Technology Center 2100
Computer Architecture, Software, and Information Security

Form PTO 1449 (Modified)

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE

LIST OF REFERENCES CITED BY APPLICANT

ATTY DOCKET NO.	SERIAL NO.
268181US2	11/081,774
APPLICANT	
Hideyuki WATANABE	
FILING DATE	GROUP
March 17, 2005	2115

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE
	AA						
	AB						
	AC						
	AD						
	AE						
	AF						
	AG						
	AH						
	AI						
	AJ						
	AK						
	AL						
	AM						
	AN						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	TRANSLATION YES	TRANSLATION NO
	AO	2001-075687	03-23-200	JAPAN	Abstract Only	
	AP					
	AQ					
	AR					
	AS					
	AT					
	AU					
	AV					

OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, etc.)

	AW	
	AX	
	AY	
	AZ	

☐ Additional References sheet(s) attached

Examiner /Ji Bae/ (02/12/2009)

Date Considered

*Examiner: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /J.B./

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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Heruth et al.	:	
Application No. 11/081786	:	
Filing or 371(c) Date: 03/16/2005	:	
Attorney Docket Number:	:	
1023-360US02	:	ON PETITION

This is a decision on the Petition Under 37 CFR 1.181(a) to Withdraw Holding of Abandonment, filed April 12, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Office Communication, mailed September 15, 2006. The Office communication set a one (1) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on October 16, 2006. A Notice of Abandonment was mailed March 26, 2007.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely response to the Office communication was filed on October 13, 2006. In support of this assertion, Applicant files a copy of the four page response which includes a Certificate of Mailing under 37 CFR 1.8, executed by Shirley A. Betlach. Applicant also files a copy of an Auto-Reply Facsimile Transmission indicating that four pages were received in this Office from Applicant on October 13, 2006.

A review of office records also reveals that the response to the Office communication was received by this Office on October 13, 2006.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3736 for processing of the response, and for further examination in the normal course of business.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Adil Faisal	: DECISION ON REQUEST FOR
Patent Number	: 7596610	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **803** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Ware, Fressola, Van Der Sluys & Adolphson, LLP
Building Five, Bradford Green
755 Main Street
P.O. Box 224
Monroe, CT 06468

Mail Date: 06/23/2010

Applicant	: Liang Yongfang	: DECISION ON REQUEST FOR
Patent Number	: 7636395	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/081,840	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1283** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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RIM/FINNEGAN
901 New York Avenue NW
Washington, DC 20001

Mail Date: 04/20/2010

Applicant	: George V. Babu	: DECISION ON REQUEST FOR
Patent Number	: 7599830	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,845	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FROM DIRECTOR'S OFFICE

MAR 12 2008

TECHNOLOGY CENTER 3600

Brian K. Seidleck
McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, DC 20005-3096

In re Application of Walter S. Conrad Application No. 11/081,847 Filed: March 17, 2005 For: APPARATUS, METHOD AND PROGRAM PRODUCT FOR PROCESSING MAIL OR DOCUMENTS USING A MAIL OR DOCUMENT PROCESSING DEVICE	DECISION ON PETITION REGARDING REQUEST TO WITHDRAW FINALITY UNDER 37 CFR §1.181

This is a decision on the petition under 37 CFR 1.181 filed December 20, 2007, requesting withdrawal of the finality of the Office Action mailed September 25, 2007.

The petition is **GRANTED**.

Petitioner alleges that the final rejection mailed September 25, 2007 is premature because the Office Action presented a new rejection of claim 16 which was neither necessitated by an amendment nor based on information submitted in an information disclosure statement.

MPEP §706.07(a) sets forth that the second or any subsequent action of the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c).

A review of the record reveals that in the first Office Action on the merits mailed on April 9, 2007, independent claim 16 was not indicated as rejected in the body of the Office action. In the response to this Office action received July 10, 2007, Petitioner did not amend claim 16. In the final Office action mailed September 25, 2007, claim 16 was rejected under 35 U.S.C. §103(a) as a being unpatentable over Woolston (US 6,697,500) in view of Hauer (US 3,452,509) and further in view of Johnson (US 5,262,597). The rejection of claim 16 was not necessitated by any amendment to claim 16.

In view of the fact that the rejection of claim 16 under 35 U.S.C. §103(a) as a being unpatentable over Woolston (US 6,697,500) in view of Hauer (US 3,452,509) and further in view of Johnson (US 5,262,597), the finality of the Office action mailed September 25, 2007 is improper and premature.

The finality of the Office Action mailed September 25, 2007 is hereby vacated. The Office Action mailed September 25, 2007 is now considered to be non-final and the shortened statutory period for response continues to run THREE (3) MONTHS from the date of mailing of the Office action. An after final amendment was received on December 20, 2007.

The application will be forwarded to the Head Supervisory Legal Instruments Examiner for removal of the "final" status from the September 25, 2007 action and for entry of the December 20, 2007 amendment, and then to the examiner for consideration of the amendment. However, if the amendment necessitates a new grounds of rejection, the next Office action will be made FINAL.

Any questions regarding this letter should be directed to Patrick Mackey at (571) 272-6916.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

KM/pm: 2/27/08

R

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Paper No.

SHLESINGER, ARKWRIGHT &
GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Robin Hunzinger	:	DECISION ACCORDING STATUS
Application No. 11/081,848	:	UNDER 37 CFR 1.47(b)
Filed: March 17, 2005	:	
Attorney Docket No. 7427	:	

This is in response to the PETITION UNDER 37 C.F.R. 1.47 IN SUPPORT OF APPLICATION BY ASSIGNEE ON BEHALF OF NON-SIGNING INVENTOR, filed October 7, 2005.

The petition under 37 CFR § 1.47(b) is **GRANTED**.

The above-identified application was filed on March 17, 2005, with an unexecuted declaration. On April 11, 2005, the Office mailed a Notice to File Missing Parts of Application, requiring an executed oath or declaration, the late surcharge and the statutory basic filing fee. This Notice set a two-month time limit, with extensions of time obtainable under §1.136(a).

In response, rule 47(b) applicant filed the instant petition, asserting that status under 47 is proper because despite assignee's diligent effort the inventor, Robin Hunzinger, who has assigned or has agreed to assign in writing the above-identified application has refused to execute the declaration. The petition includes a declaration executed by John Mensingor, President of the assignee company, on behalf of the non-signing sole inventor; the petition fee; and the late surcharge. The petition is made timely by an accompanying petition and fee for extension of time for response within the fourth month.

In support thereof, rule 47(b) applicant submits a statement of facts of patent attorney Terrence L.B. Brown.

§1.47(b) provides that:

> 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.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a prima facie case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

The petition and declaration have been reviewed and found to satisfy all requirements above. The declaration is signed by John Mensingor as authorized representative of the assignee

company[1], and is in compliance with the requirements set forth in (1) and (2) above. The supporting declaration of facts shows that inventor Hunzinger has refused to join in the application after having been presented with the application papers. Receipt of the petition fee is acknowledged. The petition includes a statement of the last known address of the non-signing inventor. Petitioner cites that an assignment from the non-signing inventor to the rule 47(b) applicant in the Canadian priority application is recorded in the Office. Finally, rule 47(b) applicant states that the filing of the application is necessary to preserve the rights of the parties.

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[1] In separate documents of record, Mr. Mensingor is identified as President of the assignee company.

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ROBIN HUNZINGER
19951 COUNTY ROAD 43
ALEXANDRIA, ONTARIO
CANADA
K0C 1A0

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SEP 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Robin Hunzinger	:	LETTER
Application No. 11/081,848	:	
Filed: March 17, 2005	:	
Attorney Docket No. 7427	:	

Dear Mr. Hunzinger:

You are named as sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as 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 Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the

application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SHLESINGER, ARKWRIGHT & GARVEY LLP
1420 KING STREET
SUITE 600
ALEXANDRIA, VA 22314

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Paper No.

STATTLER, JOHANSEN, AND
ADELI LLP
1875 CENTURY PARK
EAST SUITE 1050
CENTURY CITY, CA 90067

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FEB 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Brad Hutchings	:	DECISION DISMISSING
Application No. 11/081,850	:	PETITION
Filed: March 15, 2005	:	
Atty Docket No. TBUL.P0018	:	

This is in response to the PETITION FOR REVIEW OF THE NOTICE TO FILE MISSING PARTS UNDER 37 C.F.R. § 1.53(e) filed June 17, 2005, to accord the above-identified application a filing date of June 17, 2005, using the specification, claims and abstract, and drawings supplied June 17, 2005.

Application papers in the above-identified application were filed on March 15, 2005. However, on April 14, 2005, the Initial Patent Examination Division mailed applicant a "Notice to File Missing Parts of Nonprovisional Application." Applicant was notified that the application papers had been accorded a filing date of March 15, 2005; however, pages 3-14 of the specification appeared to have been omitted from the application. In addition, applicant was required to submit the basic filing fee, an executed oath or declaration and the late surcharge.

In response, applicant timely filed the instant petition. Petitioner asserts that the present application entitled "Variable Width Management for a Memory of Configurable IC's" filed March 15, 2005, included 65 pages of specification, claims

and abstract, and 36 sheets of drawings. Petitioner further asserts that the incorrect specification, claims, abstract and drawings are on file with the Office. Petitioner cites the fact that the application of record on pages 1 and 2 references Attorney Docket Number TBUL.P0018, while pages 15-65 reference Attorney Docket Number TBUL.P0023. Petitioner contends therefore that the specification, claims, and abstract on file with the Office do not correspond to the application filed on March 15, 2005 by applicant. In support thereof, petitioner submits a copy of their return postcard receipt.

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on March 15, 2005, and the papers assigned application No. 11/081850; 2) it specifically identifies the items being filed, including "Application Utility - specification (65 pages)" and "Drawings: 36 sheets" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including 65 pages of specification, were filed on March 15, 2005.

However, petitioner has not shown that the pages denoted on the postcard are the pages re-supplied on petition. In this instance, there is an inconsistency. The application papers already considered received in the Office on March 15, 2005 were reviewed. Those papers appear to be of the same subject matter as the instant application. More importantly, those papers bear an Attorney Docket No. TBUL.P0023, which is very similar to the Docket No. TBUL.P0018 of the papers petitioner maintains were actually filed on March 15, 2005. It is unclear how the Office could have misplaced the papers submitted by applicant with ones of such a very similar Attorney Docket Number. The evidence of record is not persuasive that the Office received and misplaced the specification, claims, abstract and drawings of the instant application and replaced those pages with corresponding pages for another application of similar subject matter also handled by a firm using the Docket No. beginning with "TBUL." Further explanation is required.

Accordingly, the petition is **DISMISSED**.

Applicant is given **two (2) months** from the mail date of this decision to respond. This period is governed by § 1.181(f) and is not extendable.

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 related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

STATTLER, JOHANSEN,
AND ADELI LLP
1875 CENTURY PARK
EAST SUITE 1050
CENTURY CITY, CA 90067

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SEP 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Brad Hutchings	:	DECISION ON
Application No. 11/081,850	:	PETITION
Filed: March 15, 2005	:	
Atty Docket No. TBUL.P0018	:	

This is in response to the RESPONSE TO DECISION DISMISSING PETITION filed April 21, 2006. Petitioner requests that the Office accord the above-identified application a filing date of June 17, 2005, using the specification, claims and abstract, and drawings supplied June 17, 2005.

Application papers in the above-identified application were filed on March 15, 2005. In response to the Notice to File Missing Parts of Nonprovisional Application mailed April 14, 2005, stating that pages 3-14 of the specification appeared to have been omitted from the application, applicant filed the initial petition. By decision mailed February 15, 2006, the petition was dismissed for failure to provide persuasive evidence that both pages 3-14 were present on filing and the pages submitted on petition were the pages 3-14 as originally filed. Given the papers present in the application, additional information to explain inconsistencies in the evidence and record was requested.

The additional arguments on instant renewed petition have been considered, in light of, a review of the image file wrapper of a

second application filed by the attorney on the same date as this application.

A review of the file wrappers reveals that some papers associated with Attorney Docket No. TBUL.P0018 and TBUL.P0023 are present in each image file wrapper. Although it appears that the applications are directed to similar subject matter (given the titles of the inventions), the applications were filed on the same date by distinct inventive entities. It is unclear how the application papers were intermingled such that papers under each docket number are present in both application files. (Petitioners are reminded that papers directed to different applications should be filed separately. See 37 CFR 1.4.) Regardless, it is appropriate under the circumstances to correct this error.

Accordingly, the petition is **GRANTED** to the extent that the application papers received on March 15, 2005 with an annotation of "TBUL.P0018" have been moved to application No. 11/081,850 to be used as the original application disclosure in that application and the application papers received on March 15, 2005 with an annotation of "TBUL.P0023" have been moved to application No. 11/081,855 to be used as the original application disclosure in that application.

As the drawing sheets do not contain an annotation, it is unclear whether the proper drawing sheets are associated with each application. It is recommended that petitioner again review PAIR and advise the Office as to which of the drawings filed March 15, 2005, should be associated with each application. Applicant is given **two (2) months** from the mail date of this decision to respond. This period is governed by § 1.181(f) and is not extendable.

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

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is thereby forwarded to OIPE for completion of pre-examination processing using the papers now present in the image file wrapper of this application. (Accordingly, it is suggested that if petitioner has a response with respect to the drawings it be filed as soon as possible).

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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Paper No.

STATTLER, JOHANSEN,
AND ADELI LLP
1875 CENTURY PARK
EAST SUITE 1050
CENTURY CITY, CA 90067

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OFFICE OF PETITIONS

In re Application of :
Brad Hutchings :
Application No. 11/081,850 : LETTER
Filed: March 15, 2005 :
Atty Docket No. TBUL.P0018 :

~~In re Application of~~ :
~~Schmit et al.~~ :
~~Application No. 11/081,855~~ :
~~Filed: March 15, 2005~~ :
~~Atty Docket No. TBUL.P0023~~ :

This is in response to the RESPONSE TO DECISION GRANTING PETITION filed November 10, 2006.

By decision mailed May 2, 2006, applicant's petition filed April 21, 2006 was granted to the extent that the application papers received on March 15, 2005 with an annotation of "TBUL.P0018" were moved to application No. 11/081,850 to be used as the original application disclosure in that application and the application papers received on March 15, 2005 with an annotation of "TBUL.P0023" were moved to application No. 11/081,855 to be used as the original application disclosure in that application. However, it was requested that petitioner review PAIR and advise the Office as to which of the drawings filed March 15, 2005, should be associated with each application.

In response, applicant filed the instant paper. The Image File Wrapper of each application has been modified to reflect this

response (i.e. the drawings filed 3/15/05 have been moved from each application to the other). To make the record complete in the '855 application, a copy of this decision is being placed in that application file.

No petition fee is required with this response and no fee has been charged.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is thereby forwarded to OIPE for completion of pre-examination processing using the papers now present in the image file wrapper of this application.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/7/09

TO SPE OF : ART UNIT 2435

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/081856 Patent No.: 7512977B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2435
Art Unit

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

Philip H. Albert
TOWNSEND AND TOWNSEND AND
CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

APR 2 7 2006

Technology Center 2100

In re Application of:
Walther
Application No. 11/081,860
Filed: March 15, 2005
For: SEARCH SYSTEMS AND METHODS WITH INTEGRATION OF USER ANNOTATIONS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed August 25, 2005.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. э 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. э 402.06. 37 C.F.R. э 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed August 25, 2005 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the

Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

For Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Customer Number 29858

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of Eckart Walther, et. al. Application No. 11/081,871 Filed: March 15, 2005 Attorney Docket No. 017887-013740US	: : : : :	DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed on August 23, 2005.

The request is **APPROVED**.

A review of the file record indicates that the attorneys or agents associated with Customer Number 20350: (1) do not have power of attorney in this patent application; but (2) have been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Phillip H. Albert and all the attorneys/agents associated with Customer No. 20350 have been withdrawn from the present application and may not prepare or submit papers, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 CFR § 1.32(b).

It is noted that the power of attorney submitted on February 15, 2006, failed to contain the required printed name and title of the individual signing on behalf of the assignee. Since the power of attorney was erroneously accepted by the Technology Center June 8, 2006, it is hereby vacated. In order for the assignee to intervene in the above application, a proper power of attorney must be submitted.

Since the power of attorney has been vacated, all future communications from the Office will be directed to the first named signing inventor at the first copied address listed below.

Telephone inquiries concerning this decision should be directed to Andrea Smith at 571-272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Eckart Walther
1230 Parkinson Avenue
Palo Alto, CA 94301

Brown, Raysman, Millstein, Felder & Steiner, LLP
900 Third Avenue
New York, NY 10022

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BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER, LLP
900 THIRD AVENUE
NEW YORK, NY 10022

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OFFICE OF PETITIONS

In re Application of	:	
Eckart Walther, et. al.	:	
Application No. 11/081,871	:	DECISION VACATING THE
Filed: March 15, 2005	:	REVOCATION OF POWER
Attorney Docket No. 7346-49US	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 CFR § 1.36(a), filed February 15, 2006.

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 printed name and title of the individual signing the power of attorney has been omitted. Also, it is unclear to the Office whether or not the individual is authorized to sign the power of attorney on behalf of the assignee. Therefore, if petitioner desires to have the power of attorney made of record in the above application, a new power of attorney must be filed containing the signature, printed name and title of the individual signing on behalf of the assignee.

Since the Office has vacated the acceptance of the power of attorney filed February 15, 2006, all future communications from the Office will be directed to the first named signing inventor until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to Andrea Smith at 571-272- 3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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DREIER, LLP
499 Park Avenue
New York, NY 10022

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In re Application of	:	
Eckart Walther et al.	:	
Application No. 11/081,871	:	DECISION ON PETITION
Filed: March 15, 2005	:	
Attorney Docket No. 600189-365	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 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 September 14, 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 October 15, 2006. A Notice of Abandonment was mailed on July 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 $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 2166 for appropriate action by the Examiner in the normal course of business on the reply received October 3, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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Ostrow Kaufman & Frankl LLP
Susan Formicola
The Chrysler Building
405 Lexington Avenue, 62nd Floor
NEW YORK, NY 10174

Mail Date: 04/20/2010

Applicant	: Eckart Walther	: DECISION ON REQUEST FOR
Patent Number	: 7599950	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/081,871	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/15/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **712** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STUDEBAKER & BRACKETT PC
1890 PRESTON WHITE DRIVE
SUITE 105
RESTON, VA 20191

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,415,909	:	
Application No. 11/081,881	:	
Filed: March 17, 2005	:	
Issued: August 26, 2008	:	
Attorney Docket No. 741440-72	:	

This is a decision on the petition filed October 28, 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**.

Although petitioner submitted a Credit Card Payment Form, authorizing the $130.00 processing fee and the $100.00 Certificate of Correction fee to be charged to petitioner's credit card, the credit card account number has been redacted on the form. Accordingly, the fees will be charged to petitioner's deposit account as authorized. If petitioner discovers that the fees were also charged to their credit card, please let the Office know.

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 the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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LAW OFFICES OF ELLIOTT N. KRAMSKY
5850 CANOGA AVENUE, SUITE 400
WOODLAND HILLS CA 91367

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OFFICE OF PETITIONS

In re Application of :
Paul Kuo :
Application No. 11/081,902 : ON PETITION
Filed: March 15, 2005 :
Attorney Docket No. 466-102 :

This is a decision on the petition filed October 16, 2006 to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

This application became abandoned June 4, 2006 for failure to file a timely response to the non-Final Office Action mailed March 3, 2006. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner claims that the non-final Office Action mailed March 3, 2006 was never received. Petitioners have provided a copy of the power of attorney filed with the application to show the correspondence address.

A review of the file reveals however that a power of attorney and address change was filed on March 3, 20063, that the attorney of record was acknowledged but that the address information was not associated with the attorney of record prior to the mailing of the non-Final Office Action on March 3, 3006. Thus, the non-Final Office Action was mailed to the wrong address and as petitioners claim, not received.

In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and the file is being forwarded to Technology Center 2872 for the re-mailing of the non-Final Office Action originally mailed on March 3, 2006. Telephone inquiries concerning the re-mailing of the Office Action should be referred to the Technology Center. All other inquiries regarding this decision may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of	:	
TESSIEN, Ross A.	:	
Application No. 11/081,906	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. **IMP023C2**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by David G. Beck, the sole attorney of record. The undersigned attorney has been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ross A. Tessien at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN c/o IMPULSE DEVICES, INC.**
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/081,906	03/16/2005	Ross Alan Tessien	IMP023C2

CONFIRMATION NO. 6202

OC000000024303216

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

Date Mailed: 06/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2007.

- 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.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/30/2010

Applicant	: Raul A. Perez	: DECISION ON REQUEST FOR
Patent Number	: 7656224	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/081,918	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

Yutakata et al.	:	LETTER REGARDING
Application No. 11/081,933	:	PATENT TERM ADJUSTMENT
Filed: March 17, 2005	:	
Attorney Docket No. 086142-0755	:	
Title: SEAT BELT BUCKLE	:	

This is a decision on the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT RECONSIDERATION," filed April 17, 2008.

Pursuant to their duty of good faith and candor to the Office, patentees disclose that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from one hundred and thirty-four (134) days to an unspecified period of time.

The request for reconsideration of the patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seventy-two (72) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

Pursuant to 37 C.F.R. § 1.704(b), the failure to reply to an Office action within three months is a failure to engage in reasonable efforts to conclude prosecution. The final action was mailed on June 20, 2007, and a first after-final response was received on September 11, 2007. The Examiner considered this response, and it was not deemed to be a proper reply. As

such, an advisory action was mailed on September 21, 2007. A second after-final response was received on October 18, 2007. However, the Examiner considered this second after-final response, and it was not deemed to be a proper reply. As such, an advisory action was mailed on October 31, 2007, and a notice of appeal along with arguments was received on December 19, 2007. This constituted a proper reply, and a Notice of Allowance and Issue Fee Due was mailed on January 18, 2008.

Thus, the reduction of 28 days for applicant delay in filing a response to the final Office action mailed June 20, 2007 is incorrect. As neither of the two amendments filed September 11, 2007 and October 18, 2007 was in compliance with 37 C.F.R. § 1.113(c)[1], the period for reply to the final rejection mailed June 20, 2007, continued to run. The proper reply, a notice of appeal, was not received in the Office until December 19, 2007. Pursuant to 37 C.F.R. § 1.704(b), the patent term adjustment should have been reduced by 90 days for applicant delay from September 20, 2007 until December 19, 2007 in filing a proper reply to the final rejection. The period of reduction of 28 days is being removed and the period of reduction of 90 days is being entered.

The other periods of delay are not at issue.

The proper period of adjustment for Office delay was properly calculated to be 188 days. The proper period of reduction for Applicant delay is 116 (26 + 90) days.

In view thereof, the patent should have issued with a revised patent term adjustment of 72 (188 - 116) days.

As this letter was submitted as an advisement to the Office of an error in Patentees' favor, the Office will not assess the $200.00 application fee under 37 C.F.R. § 1.705(b). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management will be notified of this decision so that the present application can be processed into a patent. The application is being forwarded to the Office of Data

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1 See Advisory Actions mailed September 21, 2007 and October 31, 2007.

Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl. Copy of the Revised Patent Term Adjustment

Day : Friday
Date: 6/20/2008

PALM INTRANET

Time: 14:26:26

PTA Calculations for Application: 11/081933			
Application Filing Date:	03/17/2005	PTO Delay (PTO):	188
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	54
Post-Issue Petitions:	0	Total PTA (days):	72
PTO Delay Adjustment:	-62		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
55	06/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		90	
54	06/20/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	28		
44	01/18/2008	MAIL NOTICE OF ALLOWANCE			
43	01/17/2008	ISSUE REVISION COMPLETED			
42	01/17/2008	DOCUMENT VERIFICATION			
41	01/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	01/17/2008	NOTICE OF ALLOWABILITY			
39	01/14/2008	DATE FORWARDED TO EXAMINER			
38	12/19/2007	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
37	12/19/2007	NOTICE OF APPEAL FILED			
36	12/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	11/02/2007	MAIL ADVISORY ACTION (PTOL - 303)			
34	10/31/2007	ADVISORY ACTION (PTOL-303)			
33	10/27/2007	DATE FORWARDED TO EXAMINER			
32	10/18/2007	AMENDMENT AFTER FINAL REJECTION		28	24
31	10/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	09/21/2007	MAIL ADVISORY ACTION (PTOL - 303)			
29	09/20/2007	ADVISORY ACTION (PTOL-303)			
28	09/12/2007	DATE FORWARDED TO EXAMINER			
27	09/11/2007	AMENDMENT AFTER FINAL REJECTION			
26	05/26/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	05/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

24	06/20/2007	MAIL FINAL REJECTION (PTOL - 326)			
23	06/11/2007	FINAL REJECTION			
22	03/19/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21.7	03/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	19
21	03/19/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	03/27/2007	DATE FORWARDED TO EXAMINER			
19	03/19/2007	RESPONSE AFTER NON-FINAL ACTION		26	17
18	03/19/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	11/21/2006	MAIL NON-FINAL REJECTION	188		-1
16	11/20/2006	NON-FINAL REJECTION			
15	03/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
14	09/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/17/2005	REFERENCE CAPTURE ON IDS			
12.7	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/17/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
10	09/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
9	07/05/2005	REFERENCE CAPTURE ON IDS			
8.7	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	07/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	05/06/2005	MISCELLANEOUS INCOMING LETTER			
6	05/06/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
5	04/18/2005	APPLICATION DISPATCHED FROM OIPE			
4	04/18/2005	APPLICATION IS NOW COMPLETE			
3	04/08/2005	CLEARED BY OIPE CSR			
2	03/31/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/17/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Patent No. 7,122,196	:	
Issue Date: 10/17/2006	:	NOTICE
Application No. 11/082,005	:	
Filed: 03/15/2005	:	
Attorney Docket No. 014058-008692US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed December 4, 2006.

37 CFR 1.28(c) states: "The deficiency is based on the amount of the fee, for other than a small entity, in effect at the time the deficiency is paid in full." Accordingly, the fee deficiency submission under 37 CFR 1.28 is hereby **accepted**.

The change of status to a large entity has been entered and made of record. This Notice is not intended to imply that the USPTO conducted any investigation of this matter.

Telephone inquiries concerning this Notice may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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28 DAVIS AVENUE
POUGHKEEPSIE, NY 12603

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In re Application of	:	
Krishnasamy ANANDAKUMAR, e tal	:	
Application No. 11/082,009	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. JA05-002A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on July 27, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JAALAA, INC.
ATTN : CHRIS ALFORD
3950 SORRENTO VALLEY BLVD.
SAN DIEGO, CA 92121

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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Eugene E. Renz, Jr., P.C.
205 North Monroe Street
Post Office Box 2056
Media PA 19063-9056

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Application of :
Andew Marraffa :
Application No. 11/082,013 : DECISION ON PETITION
Filed: March 16, 2005 :
Attorney Docket No. 21152C2.PUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed April 30, 2009. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 31, 2009. A Notice of Abandonment was mailed on August 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $755 issue and publication fees of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to the Office of Data Management for further processing.

Charlema Grant
Petitions Attorney
Office of Petitions

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MOUNTAIN VIEW, CA 94043

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OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
LUO, Xiuqun
Application No. 11/082,016
Filed: March 16, 2005
Attorney Docket No. **5236-000227**

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 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 1, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $750; and (3) a proper statement of unintentional delay.[1]

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 applications 11/625,255 and 11/625,267.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

1

[1] 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 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.

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United States Patent and Trademark Office
P.O. Box 1450
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Angus C. Fox, III
4093 N. Imperial Way
Provo UT 84604-5386

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MAR 27 2009

OFFICE OF PETITIONS

In re Application of

Osborn, et al.

Application No. 11/082,019

Filed: March 16, 2005

Attorney Docket No. **SSTONE04-01CIP**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), February 17, 2009, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed October 6, 2008. The Notice set forth a three (3) month statutory period for reply. The fees were not received within the allowable period. Accordingly, this application became abandoned on January 7, 2009. A Notice of Abandonment was mailed January 29, 2009.

The fees were received on February 17, 2009.

Form PTOL-85B, filed February 17, 2009, is noted and made of record.

The application is being directed to the Office of Data Management 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

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Naofumi Yanagihara	: DECISION ON REQUEST FOR
Patent Number	: 7593464	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,022	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **441** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Fox Rothschild, LLP
Bristol-Myers Squibb
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

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DEC 3 1 2009

OFFICE OF PETITIONS

In re Application of
Peter J. Licari, et. al.
Application No. 11/082,053
Filed: March 15, 2005
Attorney Docket No.
36707.00004/010103.01

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the petition filed September 23, 2009, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are 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, 365(c) and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of

the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Petitioner states, "Moreover, Application No. 09/957,483 and the instant application have at least one inventor in common, for example, Peter J. Licari, and the instant application was filed on March 15, 2005, while Application No. 09/957,483 was pending."

A review of the record shows that a petition under 37 CFR 1.48 was filed on March 25, 2005 in application No. 09/957,463, requesting that inventors be deleted which included Peter J. Licari. On December 23, 2005 a decision was granted deleting inventor Peter J. Licari from the above application. Thus, the present application and Application No. 09/957,483 do not share common inventors.

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
40l 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Fox Rothschild, LLP
Bristol-Myers Squibb
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

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In re Application of
Peter J. Licari, et. al.
Application No. 11/082,053
Filed: March 15, 2005
Attorney Docket No.
36707.00004/010103.01

DECISION ON PETITIONS
UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition filed January 26, 2010, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) 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, 365(c) and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120, 365(c) and 119(e) is accepted as being unintentionally delayed.

The rule at 37 CFR §§ 1.78(a)(3) and (a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and (a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §§1.78(a)(3) and (a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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, 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 1628 for consideration by the examiner of the claim under 35 U.S.C. §§120, 365(c) and 119(e) of the prior-filed applications.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/082,053	03/15/2005	1628	686	36707.00004/010103.01	20	2

CONFIRMATION NO. 4873

CORRECTED FILING RECEIPT

OC000000040246735

81228
Fox Rothschild LLP
Bristol-Myers Squibb
997 Lenox Drive, Bldg. #3
Lawrenceville, NJ 08648

Date Mailed: 02/23/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Peter J. Licari, Fremont, CA;
Ziyang Zhong, Union City, CA;
Indu Isaacs, Andover, MA;
John G. Augustine, Lynn, MA;

Power of Attorney: The patent practitioners associated with Customer Number 81228

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/564,197 04/20/2004
and is a CIP of 09/957,483 09/19/2001 PAT 6,998,256
which is a CIP of PCT/US01/13793 04/26/2001
which is a CIP of 09/825,876 04/03/2001 PAT 6,589,968
and is a CIP of 09/825,856 04/03/2001 PAT 6,489,314
and is a CIP of 09/560,367 04/28/2000 PAT 6,410,301
and claims benefit of 60/232,696 09/14/2000
and claims benefit of 60/257,517 12/21/2000
and claims benefit of 60/269,020 02/13/2001

Foreign Applications

If Required, Foreign Filing License Granted: 04/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/082,053**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
** SMALL ENTITY **
Title

Therapeutic formulations of desoxyepothilones

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 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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FROM DIRECTOR'S OFFICE

MAY 03 2007

TECHNOLOGY CENTER 3600

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of:	:	DECISION ON REQUEST TO
Noriaki MIYASAKA.	:	PARTICIPATE IN PATENT
Application No.: 11/082,056	:	PROSECUTION HIGHWAY PILOT
Filed: March 17, 2005	:	PROGRAM AND PETITION TO
Attorney Docket No.: 122603	:	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 April 11, 2007, to make the above-identified application special.

The request and petition are **DISMISSED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the 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 fail to include:

(6) 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. application publications.

The Decision to Grant a Patent issued by the JPO cites two JPO documents under the heading of "Reference Patent Documents", i.e. JP 2000-241874,A (JP,A) and JP 2002-247614,A (JP,A). Although an IDS was filed in the instant application on March 17, 2005, only JP 2000-241874 was provided. No other IDS is of record.

Applicant is given a time period of **ONE MONTH or THIRTY DAYS**, whichever is longer, to correct the deficiencies. **NO EXTENSION OF TIME UNDER 37 CFR 1.136 IS PERMITTED.** If the deficiencies are not corrected with the time period given, the application will await action in its regular turn.

Response must be faxed to Robert Weinhardt at 571-273-8300. Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633. All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

Robert Weinhardt
TC3600
Business Practice Specialist

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 16 2007

In re the Application of

Noriaki MIYASAKA

Group Art Unit: 2873

Application No.: 11/082,056

Examiner:

Filed: March 17, 2005

Docket No.: 122603

For: PROJECTOR AND PATTERN IMAGE DISPLAY METHOD

REPLY TO DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the May 3, 2007 Decision, an Information Disclosure Statement (IDS) was filed in the U.S. Patent and Trademark Office on May 11, 2007 in the above referenced application (copy attached). The IDS submitted JP-A-2002-247614 in full compliance with the Decision. Based on the assertions of the Decision, no further requirements are outstanding.

Accordingly, Applicant respectfully requests reinstatement of the Request to Participate in Patent Prosecution Highway Pilot Program and Petition to Make Special Under 37 CFR §1.102(d) filed April 11, 2007.

Respectfully submitted,

James A. Oliff
Registration No. 27,075

Kirk D. Berkhimer
Registration No. 59,874

JAO:KDB/mab

Attachment:
Information Disclosure Statement
P.T.O. Filing Receipt

Date: May 16, 2007

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION
Please grant any extension necessary for entry;
Charge any fee due to our Deposit Account No. 15-0461

PAGE 3/6 * RCVD AT 5/16/2007 3:13:17 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/4 * DNIS:2738300 * CSID:703 836 2787 * DURATION (mm-ss):01-28

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MAY 2 5 2007

TECHNOLOGY CENTER 3600

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of:	:	DECISION ON REQUEST TO
Noriaki MIYASAKA.	:	PARTICIPATE IN PATENT
Application No.: 11/082,056	:	PROSECUTION HIGHWAY PILOT
Filed: March 17, 2005	:	PROGRAM AND PETITION TO
Attorney Docket No.: 122603	:	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 renewed petition under 37 CFR 1.102(d), filed May 16, 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).

In light of the IDS filed May 11, 2007, the request to participate in the PPH pilot program and petition now comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Robert Weinhardt at 571-272-6633.

All other inquiries concerning the examination or status of the application should be directed to the Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Robert Weinhardt
TC3600
Business Practice Specialist

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Vladimir Sherman
c/o Landon IP, Inc.
Suite 450
1700 Diagonal Road
Alexandria, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Sadi Mizrahi et al	:	
Application No. 11/082,057	:	DECISION ON PETITION
Filed: March 17, 2005	:	TO WITHDRAW
Attorney Docket No. H-0024-0000	:	FROM RECORD

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 5, 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.

It is noted that a revocation and power of attorney was filed on March 5, 2007. However, the revocation and power of attorney is not acceptable since it was not signed by all the named applicants in this case. Accordingly, all future correspondence will continue to be addressed to the above address of record until either an acceptable request to withdraw as attorney or an acceptable power of attorney executed by all the applicants is received.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Fleit, Kain, Gibbons, Gutman,
Bongini & Bianco
21355 East Dixie Highway
Suite 115
Miami, FL 33180

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UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 2831

In re:

Applicant: Gutkin

Serial No.: 11/082,061

Filed: 03/17/2005

PETITION TO MAKE APPLICATION SPECIAL

I hereby certify that this correspondence is being deposited with the United States Postal Service by First Class Mail on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, P. O. Box 1450 Alexandria, VA 22313-1450
09/08/05
ILYA ZBOROVSKY

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

The inventor of this application is over 65 years old.

It is therefore respectfully requested to make the application special and to expedite the examination.

Respectfully submitted,

Ilya Zborovsky
Agent for Applicant
Reg. No. 28583

PETITION GRANTED

BEST AVAILABLE COPY

Richard Crispino
Special Program Examiner
TC 1700
SEP 12 2005

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

Mail Date: 04/20/2010

Applicant	: Brian K. Owens	: DECISION ON REQUEST FOR
Patent Number	: 7616745	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/16/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Jacqueline S. Larson
245 Avington Road
Alameda, CA 94502

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OFFICE OF PETITIONS

In re Application of	:	
Bradley G. Martin	:	
Application No. 11/082,099	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. BHBI-1409	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 9, 2005 and resubmitted November 16, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Susan S. Larson on behalf of all attorneys of record who are associated with Customer No. 23979.

All attorneys/agents associated with the Customer Number 23979 have been withdrawn.

Applicant is reminded that there is no attorney at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Russell M. Robinson, Esq.
International Textile Group, Inc.
P.O. Box 26540
Greensboro, NC 27415-6540

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/082,099	03/16/2005	Bradley G. Martin	BHBI-1409

CONFIRMATION NO. 6043

OC000000019805586

OC000000019805586

23979
JACQUELINE S LARSON
245 AVINGTON ROAD
ALAMEDA, CA 94502

Date Mailed: 07/28/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/25/2005.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS CA 90212

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OFFICE OF PETITIONS

In re Application of
Stillman
Application No. 11/082,105
Filed: March 16, 2005
Attorney Docket No. 06-07-2958
For: INTERACTIVE VENDING SYSTEM(S) FEATURING PRODUCT CUSTOMIZATION, MULTIMEDIA, EDUCATION AND ENTERTAINMENT, WITH BUSINESS OPPORTUNITIES, MODELS, AND METHODS

ON PETITION

This is a decision on the petition, filed October 29, 2008, under 37 CFR 1.137(b) to revive the above-identified application. Due to the explanation of the cause of the delay in responding to the Office action in question, the petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed September 10, 2007, which set an extendable period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on December 11, 2007. A Notice of Abandonment was mailed on April 17, 2008.

The Office received a proper Power of Attorney/Change of Correspondence Address on July 26, 2006. Unfortunately, the Office did not promptly enter the requested changes. This error resulted in the September 10, 2007 non-final Office action being mailed to the previous correspondence address of record. The Power of Attorney/Change of Correspondence Address Change of Correspondence Address was not entered into Office databases until November 24, 2008.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter. The $810.00 Rule 137(b) petition fee will be refunded to petitioner's credit card.

There is no need to re-mail the Office action of September 10, 2007, as petitioner has submitted a response to it with the present petition.

After the mailing of this decision, the application will be forwarded to Technology Center AU 2887 for consideration of the amendment, filed October 29, 2008.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/082,105	03/16/2005	Suzanne Jaffe Stillman	16019.901141

CONFIRMATION NO. 6013

POA ACCEPTANCE LETTER

23388
TROJAN LAW OFFICES
9250 WILSHIRE BLVD
SUITE 325
BEVERLY HILLS, CA 90212

OC000000033283913

Date Mailed: 11/24/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/26/2006.

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.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/082,105	03/16/2005	Suzanne Jaffe Stillman	16019.901141

CONFIRMATION NO. 6013

POWER OF ATTORNEY NOTICE

45783
LINER YANKELEVITZ SUNSHINE AND REGENSTREIF
1100 GLENDON AVENUE, 14TH FLOOR
LOS ANGELES, CA 90024

OC000000033283893

Date Mailed: 11/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/26/2006.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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GALEN CALVERT
89 LONEPINE ROAD
LONEPINE MT 59848

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OFFICE OF PETITIONS

In re Application of	:	
CALVERT, Galen E.	:	
Application No. 11/082,144	:	DECISION ON PETITION
Filed: March 15, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 22, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the statement of inventor Galen E. Calvert, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3671 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Ryosuke Usui et al	:	
Application No. 11/082,151	:	ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 18151-010001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 20, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 21, 2006.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1020 extension of time submitted with the petition on March 21, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790, and the submission required by 37 CFR 1.114; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2815 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

cc: Fish & Richardson P.C.
Citigroup Center
153 East 53rd Street, 52nd Floor
New York, NY 10022-4611

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ROBERT M BAUER, ESQ.
MACDONALD ILLIG JONES & BRITTON LLP
SUITE 700
100 STATE STREET
ERIE PA 16507-1459

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SEP 26 2008

In re Application of	:	
SAVILAMPI, Erkki	:	
Application No. 11/082,159	:	DECISION ON PETITION
Filed: March 16, 2005	:	TO WITHDRAW
Attorney Docket No. **NOKIA.2010US**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 25, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Robert Bauer on behalf of all attorneys of record who are associated with customer No. 43829. All attorneys/agents associated with the Customer Number 43829 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must

have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ERKKI SAVILAMPI**
KARPANKUJA 4 AS 4
FIN-33880
LEMPAALA FINLAND

cc: **HARRINGTON & SMITH LLP**
4 RESEARCH DRIVE
SHELTON CT 06484