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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark A. **BOYS**	:	
Application No. 11/082,160	:	DECISION ON PETITION
Filed: March 15, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **115479-148933**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 5, 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 6, 2008.

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

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

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the amendment received August 28, 2008.

Brian W. Brown
Petitions Examiner
Office of Petitions

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Mark A. Boys	: DECISION ON REQUEST FOR
Patent Number	: 7610337	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,160	: 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 **695** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Rustem F. Ismagilov	: DECISION ON REQUEST FOR
Patent Number	: 7655470	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,187	: 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 **1353** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WALSTEIN BENNETT SMITH, III
P.O. BOX 1668
GEORGETOWN, TX 78628

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Leonard L. Ott, et. al.	:	
Application No. 11/082,190	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. SC.2004.23	:	

This is a decision on the petition under 37 CFR 1.182, filed, January 30, 2008, to change the name of inventor "Jack Brandon" to --John E. Brandon--.

The petition is **GRANTED.**

Office records have been updated to reflect the inventor's change of name. A corrected Filing Receipt, which reflects the inventor's change of name, accompanies this decision on petition.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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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
11/082,190	03/16/2005	2876	2215	SC.2004.23	74	6

CONFIRMATION NO. 2969

CORRECTED FILING RECEIPT

23339
WALSTEIN BENNETT SMITH III
P. O. BOX 1668
GEORGETOWN, TX 78628

OC000000031852408

Date Mailed: 09/02/2008

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)

Leonard L. Ott, Livermore, CA;
John E. Brandon, San Rafael, CA;
Charles Ader, Livermore, CA;

Power of Attorney:
Walstein Smith III--36685
Korbin Van Dyke--52313

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/554,080 03/17/2004

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 11/082,190**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

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

Title

CORDLESS HAND SCANNER WITH IMPROVED USER FEEDBACK

Preliminary Class

235

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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 DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450

Date	: 7/20/2009
Patent No.	: 7,549,164 B2
Serial No.	: 11/082,194
Inventor(s)	: Cook et al.
Issue Date	: January 16, 2009
Title	: **INTRUSTION PROTECTION SYSTEM UTILIZING LAYERS AND TRIGGERS**
Doc./File No.	: **4001-0262**

Re: Certificate of Correction (Reconsideration)

Consideration has been given your request for a certificate of correction (reconsideration), for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting, the alleged error(s) in your request, the alleged error in item (54) Title, is/are printed in accordance with the record in the office as shown on PTO form (85b) Issue Fee Transmittal, dated 5/6/09, and no other requests or amendments were presented prior to the issue fee payment. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

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

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch, accompanied by the appropriate fee which is presently $100.

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

ADVANTEDGE LAW GROUP, LLC
922 W. Baxter Dr.
Suite 100
South Jordan UT 84095

ecw

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Philip H. Albert
TOWNSEND AND TOWNSEND AND
CREW, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

MAILED

NOV 0 8 2005

TECHNOLOGY CENTER 2100

In re Application of:
Lu et al.
Application No. 11/082,202
Filed: March 15, 2005
For: SEARCH SYSTEM AND METHODS WITH INTEGRATION OF USER ANNOTATIONS FROM A TRUST NETWORK

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. § 1.136(a). The effective date of withdrawal is the date of decision and not the date of request. See M.P.E.P. § 402.06. 37 C.F.R. § 10.40(a) further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request is **GRANTED**.

All future communications from the U.S. Patent and Trademark Office (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 Office of any change in correspondence address to ensure receipt of all communications from the Office.

Michelle R. Eason
for

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

cc: BROWN, RAYSMAN, MILLSTEIN,
FELDER & STEINER LLP
900 Third Avenue
New York, NY 10022

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TECHNOLOGY & INNOVATION LAW GROUP, PC
ATTN: 101
19200 STEVENS CREEK BLVD., SUITE 240
CUPERTINO CA 95014

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SEP 19 2007
OFFICE OF PETITIONS

Applicant: Ameerally et al.
Appl. No.: 11/082,207
Filing Date: March 15, 2005
Title: METHOD AND SYSTEM FOR NETWORK-BASED PROMOTION OF PARTICULAR DIGITAL MEDIA ITEMS
Attorney Docket No.: 101-P394/P3816US1
Pub. No.: 2006/0212401 A1
Pub. Date: September 21, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 6, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in paragraph [0046], wherein "we now turn to FIG. 5, which is a "screen shot" illustrating" is misprinted as "we flow turn to FIG. 5, which is a "screen shot" illustrating".

37 CFR 1.221 (b) is applicable "only when the Office makes **a material mistake** which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor in paragraph [0046] may be an Office error, but it is not a material Office error under 37 CFR 1.221. The substitution of the word "now" by "flow" in the sentence is a minor typographical error, which is clearly understandable to of ordinary skill. The typographical error does not 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

[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).

to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, and/or **complete copies of the pre-grant publication**, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted. See MPEP 1130 for the appropriate manner and situation in which to submit a republication request.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

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

By facsimile: 571-273-8300

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

Mark 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/082,210	03/15/2005	Dieter Ammon	MB 464	2806

7590 08/06/2008

KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

EXAMINER
BERTHEAUD, PETER JOHN

ART UNIT	PAPER NUMBER
3746	

MAIL DATE	DELIVERY MODE
08/06/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruce M. Schwalm	:	DECISION REFUSING STATUS
Application No. 11/082,235	:	UNDER 37 CFR 1.47(b)
Filed: March 16, 2005	:	
Attorney Docket No. TRM TR010030CON	:	
Title: MOTOR VEHICLE PNEUMATIC	:	
BUMPER	:	

This is in response to the petition under 37 CFR 1.47(b), filed November 16, 2005 (certificate of mailing dated November 14, 2005). Applicant obtained an extension of time for response within the fifth month. Therefore, the petition is filed timely.

Applicant showed that Bruce M. Schwalm, the non-signing inventor, constructively refused to join in the application after applicant mailed the application papers to him. Specifically, Steven J. Grossman, attorney for applicant, stated that a complete copy of the application papers was mailed to the non-signing inventor via USPS Express Mail. Mr. Grossman indicated that the package was received on March 23, 2005, and was signed for by B. Schwalm. A copy of the letter to Mr. Schwalm, the Express Mail receipt, and the Delivery Status Sheet for the USPS accompany the present petition. Furthermore, Mr. Grossman asserted that an Internet search was performed but no other address for Mr. Schwalm were located in the state of Michigan. A copy of the results of that Internet search also accompanies the petition. Additionally, applicant identified the inventor's last known address and indicated that such action was necessary to preserve the rights of the party. Lastly, applicant submitted an acceptable declaration and paid the petition fee.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks item (5) as set forth above.

Accordingly, the petition is <u>dismissed</u>.

Applicant 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 <u>may</u> 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).

As to item (5), applicant failed to show that Collins & Aikman has sufficient proprietary interest in the subject matter to justify the filing of the application. Pursuant to MPEP 409.03(f):

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove:
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted.... A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

Upon filing a renewed petition, applicant must provide documentary evidence proving that Collins & Aikman has sufficient proprietary interest in the subject matter to justify the filing of the application. A mere statement that Mr. Schwalm was a former employee of Collins & Aikman and had an obligation to assignee all inventions developed in the course of his employment relating to the subject matter of his employment is not sufficient proof of proprietary interest.

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

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GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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In re Application of	:	
Bruce M. Schwalm	:	DECISION ACCORDING STATUS
Application No. 11/082,235	:	UNDER 37 CFR 1.47(b)
Filed: March 16, 2005	:	
Attorney Docket No. TRM TR010030CON	:	
Title: MOTOR VEHICLE PNEUMATIC	:	
BUMPER	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed June 21, 2006 (certificate of mailing dated June 19, 2006). Applicant obtained an extension of time for response within the fourth month. Therefore, the petition is filed timely.

Applicant showed that Bruce M. Schwalm, the non-signing inventor, constructively refused to join in the application after applicant mailed the application papers to him. Specifically, Steven J. Grossman, attorney for applicant, stated that a complete copy of the application papers was mailed to the non-signing inventor via USPS Express Mail. Mr. Grossman indicated that the package was received on March 23, 2005, and was signed for by B. Schwalm. A copy of the letter to Mr. Schwalm, the Express Mail receipt, and the Delivery Status Sheet for the USPS accompany the present petition. Furthermore, Mr. Grossman asserted that an Internet search was performed but no other address for Mr. Schwalm were located in the state of Michigan. A copy of the results of that Internet search also accompanies the petition. Additionally, applicant identified the inventor's last known address and indicated that such action was necessary to preserve the rights of the party. Applicant submitted an acceptable declaration and paid the petition fee. Lastly, applicant showed that Collins & Aikman has sufficient proprietary interest in the subject matter to justify the filing of the application.

Accordingly, the petition is granted.

The 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 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center Art Unit 3616.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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Bruce M. Schwalm
34969 Parkdale Street
Livonia, Michigan 48150

In re Application of	:	
Bruce M. Schwalm	:	
Application No. 11/082,235	:	
Filed: March 16, 2005	:	LETTER
Attorney Docket No. TRM TR010030CON	:	
Title: MOTOR VEHICLE PNEUMATIC	:	
BUMPER	:	

Dear Mr. Schwalm:

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

GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERICAL STREET
MANCHESTER NH 03101

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MAR 16 2007

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

In re Application of	:
Jinhong Fan et al	:
Serial No.: 11/082,241	: PETITION DECISION
Filed: May 15, 2005	:
Attorney Docket No.: CYTOP155	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 3, 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**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

George Elliott
Director, Technology Center 1600

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MAY 11 2006

IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

In re Application of: Keith Platt and Jon Carnell

Assignee: PGR Filters, LLC

Serial No.: 11/082,259

Docket No.: 18765-1

Title: Filter Assembly for Pipelines

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RE-PETITION TO MAKE SPECIAL UNDER THE ENVIRONMENTAL PROGRAM (37 C.F.R. § 1.102(c) AND M.P.E.P. § 708.02 V)

Applicants and assignee hereby re-petition to make this application special because it is an invention that materially enhances the quality of the environment pursuant to 37 CFR § 1.102(c) and M.P.E.P. § 708.02(V). Applicants and previous assignee, Industrial Pipeline Solutions, LLC, have previously submitted a petition to make special on 3/17/2005. The PTO has never responded to our petition filed on 3/17/2005 which prompted this re-petition. Since the filing of the original petition, Industrial Pipeline Solutions, LLC has assigned this patent application to PGR Filters, LLC.

The copy of the accompanying declaration by the previous Assignee of the entire interest explains how the invention contributes to these ends. The original declaration was filed with the application. Attached herewith is a copy of the Filing Receipt.

1038269_1

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
5-23-06

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

COPY MAILED

SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Hugh F. Smisson III, Richard G. Cartledge,	:	DECISION ON PETITION
John M. Laconis, Jeffrey W. Jerrell, John M.	:	UNDER 37 C.F.R. §1.47(a)
Christensen, Michael L. Koltz, Frederick J.	:	
York, and Bradford J. Rainer	:	
Application No. 11/082,260	:	
Filed: March 17, 2005	:	
Attorney Docket No. 17311-0029	:	
Title: INFUSION FLUID HEAT	:	
EXCHANGER AND CARTRIDGE	:	

This is in response to the petition under 37 C.F.R. §1.47(b), which is properly treated as a petition under 37 C.F.R. §1.47(a)[1], filed September 8, 2005.

On March 17, 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. This Notice set a two-month period for reply.

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

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

With the present petition, Petitioner has submitted the petition fee, the associated surcharge, two statements of facts, and a declaration which has been signed by each of the joint inventors save Mr. Christensen. Petitioner has further included a three-month extension of time to make timely this response.

Petitioner has met requirements (1) – (3).

Regarding the fourth requirement, Petitioner alleges that a complete copy of the application was sent to the last known address of the non-signing inventor. However, it is noted that neither the petitioner nor declarants Jaecklein[2] or Warren[3] have firsthand knowledge of this event, since neither of them actually sent the package to the non-signing inventor.

Furthermore, a copy of the letter has been included, and it sets forth that two items were enclosed: the declaration and power of attorney, and a copy of the non-disclosure and patent assignment agreement. It is noted that the letter does not appear to make any mention of the enclosure of a complete copy of the application. It seems that had a copy of the application been included with the letter, it would have appeared on the list of enclosures. As such, it seems that a complete copy of the application was not sent to the last known address of the non-signing inventor.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[4].

Petitioner may wish to consider sending a complete copy of the application to the non-signing inventor and waiting an appropriate period of time before submitting any renewed petition, in order to provide him with the opportunity to respond.

Regarding the fifth requirement, , the declaration is not compliant with 28 U.S.C. 1746, in that signing inventor Smisson has failed to affix a date next to his signature.

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

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2 See paragraph 4 of Jaecklein's declaration of facts.
3 See paragraph 2 of Warren's declaration of facts.
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

that the attorney handling this matter is Paul Shanoski. Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

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

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

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.

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Paper No. None

SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

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OFFICE OF PETITIONS

In re Application of	:	
Hugh F. Smisson III, Richard G. Cartledge, John M. Laconis, Jeffrey W. Jerrell, John M. Christensen, Michael L. Koltz, Frederick J. York, and Bradford J. Rainer	:	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.47(a)
Application No. 11/082,260	:	
Filed: March 17, 2005	:	
Attorney Docket No. 17311-0029	:	
Title: INFUSION FLUID HEAT EXCHANGER AND CARTRIDGE	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed November 21, 2005.

On March 17, 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. This Notice set a two-month period for reply.

The original petition, submitted on September 8, 2005, was dismissed via the mailing of a decision on September 20, 2005 for failure to evince that a complete copy of the application was

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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.

sent to the last-known address of the non-signing joint inventor and for failure to submit an acceptable declaration.

With this renewed petition, these deficiencies have been corrected.

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

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

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

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

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OFFICE OF PETITIONS

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LLP
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ATLANTA GA 30309

In re Patent No. 7,563,248	:	DECISION ON
Smisson III, et al.	:	APPLICATION FOR
Application No. 11/082,260	:	PATENT TERM ADJUSTMENT
Issue Date: July 21, 2009	:	AND NOTICE OF INTENT TO
Filed: March 17, 2005	:	ISSUE CERTIFICATE OF
Attny. Docket No. 17311-0029	:	CORRECTION

This is in response to the APPLICATION FOR PATENT TERM ADJUSTENT UNDER 37 C.F.R. §1.705(d), filed August 18, 2009. Patentees request that the determination of patent term adjustment be corrected from eight hundred fifty-six (856) days to one thousand and ninety-three (1,093) days.

The request for reconsideration of patent term adjustment is **granted to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of seven hundred seventy-two (772) days.

Patentees are given THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer, from the mail date of this decision to respond to this decision. No extensions of time will be granted under § 1.136.

On July 21, 2009, the application matured into U.S. Patent No. 7,563,248, with a revised patent term adjustment of 856 days. The Office determined that the 491 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 911 days of Office delay pursuant to 35 U.S.C. § 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, 0 additional days of patent term adjustment

were entered at issuance under the three-year pendency provision. Given the Office delay of 911 days, the patent issued with a revised patent term adjustment of 856 (911 - 55 applicant delay) days.

On August 18, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,093 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)and taking into consideration an additional period of applicant delay assessed in connection with an Information Disclosure Statement (IDS) filed on May 5, 2009. Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays occur on the same calendar day. Patentees maintain that the total non-overlapping PTO delay under § 154(b)(1)(A) & (B) is 1,161 (911 + 491 - 241 overlap) days as these periods do not occur on the same day.

In addition, pursuant to patentees' duty of good faith and candor to the Office, patentees assert that the Office missed another period of applicant delay resulting from the filing of an IDS on May 5, 2009.

Patentee's argument that the reduction should be measured pursuant to 37 CFR 1.704(c)(6), rather than 37 CFR 1.704(c)(8), is not persuasive, as 37 CFR 1.704(c)(6) pertains to preliminary amendments or papers. The IDS at issue is not a preliminary paper.

Pursuant to 37 CFR 1.704(c)(8), 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, is a failure to engage in reasonable efforts to conclude prosecution. It is undisputed that after filing a response on February 10, 2009, applicants filed an IDS on May 5, 2009. The record does not support a conclusion that the IDS was expressly requested by the examiner. Further, a review of the IDS filed May 5, 2009, reveals that it did not include a proper § 1.704(d) statement.[1]

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[1] Applicants are reminded that 37 CFR 1.704(d) was revised, effective May 24, 2004, as follows:

Accordingly, a period of reduction of 84 days, measured from February 11, 2009, the date after the initial reply was filed, and ending on May 5, 2009, the date that the supplemental reply was filed, will be entered. Patentees calculated a 85 day period because patentees erroneously began measuring the period from February 10, 2009.

Considering the applicant delay is 139 (55 + 84) days, patentees' assertion of entitlement is deemed to be 1,022 (1,161 - 139) days of patent term adjustment.

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) 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.

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004.

154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), March 17, 2005, and ending on the date of issuance of the patent, July 21, 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), 911 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 491 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 491 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 911 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of 250 (adjusted for overlap per patentees' definition of overlap) days and 911 days is neither permitted nor warranted. 911 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 additional days of adjustment pursuant to § 1.702(b) for a total of the greater period of 911 days for Office delay.

Given entry of the additional period of reduction of 84 days, discussed above, the patent should have issued with a revised Patent Term Adjustment of seven hundred seventy-two (772) days (911 - 139).

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 Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **seven hundred seventy-two (772)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,248 B2

DATED : July 21, 2009

INVENTOR(S) : Smisson, III 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 (856) days

Delete the phrase "by 856 days" and insert – by 772 days--

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OFFICE OF PETITIONS

In re Patent No. 7,563,248	:	DECISION ON
Smisson III, et al.	:	APPLICATION FOR
Application No. 11/082,260	:	PATENT TERM ADJUSTMENT
Issue Date: July 21, 2009	:	AND NOTICE OF INTENT TO
Filed: March 17, 2005	:	ISSUE CERTIFICATE OF
Attny. Docket No. 17311-0029	:	CORRECTION

This is in response to the RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT, filed January 19, 2010. The correspondence will be treated under 37 C.F.R. §1.705(d). Patentees request that the determination of patent term adjustment be corrected from seven hundred seventy-two (772) days to one thousand and twenty-two (1022) 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 and twenty-two (1022) days is **GRANTED**.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand and twenty-two (1022)** days.

Patentees paid the $200.00 fee pursuant to 37 CFR 1.18(e) on August 18, 2009. No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,248 B2

DATED : July 21, 2009

INVENTOR(S) : Smisson, III et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by (772) days

Delete the phrase "by 772 days" and insert – by 1022 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 THOMAS JEFFERSON STREET, N.W.
EAST LOBBY: SUITE 700
WASHINGTON DC 20007-5201

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
George T. Metroyanis, et al.	:	
Application No. 11/082,271	:	DECISION ON PETITION
Filed: March 17, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 330739-00100	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 12, 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 copy of applicant George T. Metroyanis' birth certificate. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3723 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Mail Date: 04/30/2010

Applicant	: Yozo Hida	: DECISION ON REQUEST FOR
Patent Number	: 7620913	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/082,275	: 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 **901** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
Braun, Jacobson, Chaudhry, and	:	
Tremblay	:	DECISION REFUSING STATUS
Application No. 11/082,281	:	UNDER 37 CFR 1.47(a)
Filed: 16 March, 2005	:	
Atty Docket No. P-9343		

This is a decision on the petition under 37 CFR 1.47(a), filed on 16 June, 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 16 March, 2005, without an executed oath or declaration. Accordingly, on 14 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 16 June, 2005 (certificate of mailing date 14 June, 2005), a petition under 37 CFR 1.47(a), the present petition, authorization to charge any required fees and the late filing surcharge were filed, along with a declaration naming Christof Braun, Quinn A. Jacobson, Shailender Chaudry, and Marc

Tremblay as joint inventors and signed by all joint inventors except Jacobson. The declaration was signed on behalf of joint inventor Jacobson apparently by joint inventor Tremblay.

Petitioners assert that joint inventor Jacobson has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that joint inventor Jacobson was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1]

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

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[1] MPEP 409.03(d).

In regards to item (2), the declaration is not acceptable because only one of the signing inventors signed on behalf of the non-signing inventor. The declaration is acceptable if all of the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor. The declaration is not acceptable if there are two or more signing inventors and only one of the signing inventors signed on behalf of the non-signing inventor.

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
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By FAX: (571) 273-8300
Attn: Office of Petitions

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Braun, Jacobson, Chaudhry, and :
Tremblay :
Application No. 11/082,281 :
Filed: 16 March, 2005 :
Atty Docket No. P-9343

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 19 September, 2005 (certificate of mailing date 13 September, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Quinn A. Jacobson, has refused to review the application and sign the declaration. Specifically, petitioners have provided a copy of a letter signed by Jacobson in which he states that he will refuse to accept delivery of any Sun Microsystems, the putative owner of this application, applications for patent naming him as a joint inventor.

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 in the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

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

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Quinn A. Jacobson
598 Sunnymount Avenue
Sunnyvale CA 94087

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OFFICE OF PETITIONS

In re Application of
Braun et al.
Application No. 11/082,281
Filed: 16 March, 2005
For: METHOD AND STRUCTURE FOR EXPLICIT SOFTWARE CONTROL OF DATA SPECULATION

Dear Mr. Jacobson:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

GUNNISON MCKAY & HODGSON LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY CA 93940

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OFFICE OF PETITIONS

In re Application of	:	
Tremblay, Chaudhry, and	:	
Jacobson	:	DECISION REFUSING STATUS
Application No. 11/082,282	:	UNDER 37 CFR 1.47(a)
Filed: 16 March, 2005	:	
Atty Docket No. SUN040062	:	

This is a decision on the petition under 37 CFR 1.47(a), filed on 17 June, 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 16 March, 2005, without an executed oath or declaration. Accordingly, on 14 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 June, 2005 (certificate of mailing date 14 June, 2005), a petition under 37 CFR 1.47(a), the present petition, authorization to charge any required fees and the late filing surcharge were filed, along with a declaration naming Marc Tremblay, Shailender Chaudry, and Quinn A. Jacobson as joint

inventors and signed by all joint inventors except Jacobson. The declaration was signed on behalf of joint inventor Jacobson apparently by joint inventor Tremblay.

Petitioners assert that joint inventor Jacobson has refused to sign the declaration.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that joint inventor Jacobson was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1]

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

---

[1] MPEP 409.03(d).

In regards to item (2), the declaration is not acceptable because only one of the signing inventors signed on behalf of the non-signing inventor. The declaration is acceptable if all of the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor. The declaration is not acceptable if there are two or more signing inventors and only one of the signing inventors signed on behalf of the non-signing inventor.

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

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By FAX: (571) 273-8300
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401 Dulany Street
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Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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In re Application of	:	
Tremblay, Chaudhry, and	:	
Jacobson	:	DECISION ACCORDING STATUS
Application No. 11/082,282	:	UNDER 37 CFR 1.47(a)
Filed: 16 March, 2005	:	
Atty Docket No. SUN040062	:	

This is a decision on the "Declaration of Forrest Gunnison In support of Request for Reconsideration of Petitions Under 37 C.F.R. § 1.47(a)" which is treated as a renewed petition under 37 CFR 1.47(a), filed on 19 September, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Quinn A. Jacobson, has refused to review the application and sign the declaration. Specifically, petitioners have provided a copy of a letter signed by Jacobson in which he states that he will refuse to accept delivery of any Sun Microsystems, the putative owner of this application, applications for patent naming him as a joint inventor.

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*.

As the present request for reconsideration was filed more than two (2) months after the mailing of the decision refusing status mailed on 14 July, 2005, and did not include a timely certificate

of mailing, a one (1) month extension of time is due and will be charged to counsel's deposit account, No. 50-0553, as authorized in the petition filed 17 June, 2005.

The application is being referred to Technology Center 2183 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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Quinn A. Jacobson
598 Sunnymount Avenue
Sunnyvale CA 94087

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OFFICE OF PETITIONS

In re Application of
Tremblay et al.
Application No. 11/082,282
Filed: 16 March, 2005
For: METHOD AND STRUCTURE FOR EXPLICIT SOFTWARE CONTROL USING SCOREBOARD STATUS INFORMATION

Dear Mr. Jacobson:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SUITE 1600
CHICAGO, IL 60604

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Jun –Hee Cho, et al.	:	
Application No. 11/082,292	:	DECISION ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. CU-4121 WWP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2009, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 11, 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 September 12, 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) a proper statement of unintentional delay.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2895 for appropriate action by the Examiner in the normal course of business on the reply received April 24, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

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53 W. JACKSON BLVD.
CHICAGO IL 60604

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OFFICE OF PETITIONS

In re Application of	:	
Saito, Tajima, and Onoguchi	:	DECISION REFUSING STATUS
Application No. 11/082,299	:	UNDER 37 CFR 1.47(a)
Filed: 17 March, 2005	:	
Atty Docket No. 14107	:	

This is in response to the petition filed on 17 March, 2005, which is treated as a petition under 37 CFR 1.47(a).

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 present petition was filed with the application papers on 17 March, 2005, and a declaration naming Tatsuya Saito, Yukio Tajima, and Yoshio Onoguchi as joint inventors and signed by joint inventors Saito and Tajima on behalf of themselves and non-signing joint inventor Onoguchi.

Petitioners state that Onoguchi has refused to sign any forms related to the above-identified application.

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).

With regard to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] In order for a Rule 47 petition to be granted, the inventor **must** be afforded an opportunity to review the application.[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of

---

[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

It is noted that petitioners included a check for $130.00 for the petition fee. Effective 8 December, 2004, the petition fee for a petition under 37 CFR 1.47(a) is $200.00. As such, the balance due of $70.00 will be charged to counsel's deposit account, No. 04-2219, as authorized in the present petition.

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

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

By FAX: (703) 872-9306
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By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of	:	CORRECTED
Saito, Tajima, and Onoguchi	:	DECISION REFUSING STATUS
Application No. 11/082,299	:	UNDER 37 CFR 1.47(a)
Filed: 17 March, 2005	:	
Atty Docket No. 14107	:	

This is in a corrected decision in response to the petition filed on 17 March, 2005, which is treated as a petition under 37 CFR 1.47(a).

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of the decision mailed on 1 June, 2005, 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 present petition was filed with the application papers on 17 March, 2005, and a declaration naming Tatsuya Saito, Yukio Tajima, and Yoshio Onoguchi as joint inventors and signed by joint inventors Saito and Tajima on behalf of themselves and non-signing joint inventor Onoguchi.

Petitioners state that Onoguchi has refused to sign any forms related to the above-identified application.

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 items (1) and (3).

With regard to item (1), petitioners have not provided proof that the non-signing inventor was ever sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] In order for a Rule 47 petition to be granted, the inventor **must** be afforded an opportunity to review the application.[2] Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

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[1] MPEP 409.03(d).

[2] See In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). The application papers must be sent or given to the non-signing inventor unless he or she refuses to accept delivery of the papers.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

With regard to item (3), as stated in the decision mailed on 1 June, 2005, effective 8 December, 2004, the petition fee for a petition under 37 CFR 1.47(a) is $200.00. However, a review of Office financial records on 1 and 16 June, 2005, counsel's deposit account, No. 04-2219, contained a balance of $8.00, and the USPTO was unable to charge the balance due of $70.00. Patent and trademark fees and charges payable to the U.S. Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[3] As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the balance of the petition fee due.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[3] 37 CFR 1.22(a).

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of	:
Saito et al.	: DECISION NOTING JOINDER OF
Application No. 11/082,299	: INVENTOR AND PETITION
Filed: 17 March, 2005	: UNDER 37 CFR 1.47(a) MOOT
Atty Dckt No. 14107	:

Papers filed on 3 August, 2005, in response to the decision dismissing petition mailed on 16 June, 2005, included a Declaration signed by the previously non-signing inventor, Yoshio Onoguchi, in compliance with 37 CFR 1.63.

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

This application will be referred to Technology Center Art Unit 3611 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Washington, D.C. 20231
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IRVINE, CA 92614

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OCT 25 2006

OFFICE OF PETITIONS

In re Application of :
Hai-Quan Wu :
Application No. 11/082,300 :
Filed: March 17, 2005 :
Attorney Docket No. UDL14.004AUS :

ON PETITION

This is a decision on the petition filed July 24, 2006, under 37 CFR § 1.48 and 37 CFR § 1.47.The petition seeks to correct the inventorship of the above-identified application and accord status under 37 CFR 1.47 in the absence of the signatures of all the named inventors.

The petition under 37 CFR § 1.48 is **DISMISSED.**
The petition under 37 CFR § 1.47 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. FAILURE TO TIMELY RENEW THE PETITION WILL RESULT IN ABANDONMENT. The reconsideration request should include a cover letter entitled "Renewed Petitions under 37 CFR §§ 1.48 and 1.47.

The application was filed naming Hai-Quan Wu as the sole inventor. It was later learned that in fact Hai-Quan Wu was not an inventor but that Paolo Andriolo and Michael Panosian were the inventors. Petitioner seeks under 37 CFR § 1.48(a) to amend the inventive entity by the deletion of Hai-Quan Wu and the addition of Paolo Andriolo and Michael Panosian . 37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
(3) the fee set forth in 37 CFR 1.17 (l); and
(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

Petitioners have submitted a statement of lack of deceptive intent executed by Hai-Quan Wu and Paolo Andriolo and an assent of assignee to correction and/or addition of inventor, however, neither the statement of lack of deceptive intent nor the supplemental oath or declaration has been executed by joint inventor Panosian. Petitioners argue that joint inventor Panosian could not be found or reached after diligent effort. In lieu thereof, petitioners seek status under 37 CFR § 1.47(a).

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.

As to the requirements of 37 CFR § 1.47(a), the petition fails for lack of compliance with item (1) and thus, the petition under 37 CFR § 1.487(a) fails for lack of compliance with item (2).

Petitioners claim that a copy of the statement under 37 CFR 1.48(a) was sent to the last known address, that phone calls and emails have gone unanswered. From the evidence presented however, it doesn't appear that locating Mr. Panosian is the issue if the last known address was used. It is assumed that the address used was a correct address.

The evidence presented however does not show that diligent efforts have been employed to forward a complete copy of the application papers to Mr. Panosian in compliance with item (1) under 37 CFR § 1.47(a).

If petitioners are satisfied that Mr. Panosian no longer lives at the last known address and would like to argue that he cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Panosian such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact Mr. Panosian by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.
If another address for the non-signing inventor is located, petitioner will want to show proof that a copy of the application was sent or given to the non-signing inventors for

[1] MPEP 409.03(d).

review by providing a copy of the cover letter transmitting the application papers to the non-signing inventors 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 can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that 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 facts.

Because the proof submitted is insufficient to accord status under 37 CFR § 1.47(a), the petition under 37 CFR § 1.48 is also deficient.

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
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

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APR 16 2007

OFFICE OF PETITIONS

In re Application of :
Hai-Quan Wu :
Application No. 11/082,300 : ON PETITION
Filed: March 17, 2005 :
Attorney Docket No. UDL14.004AUS :

This is a decision on the renewed petition filed March 22, 2007, under 37 CFR § 1.48[1] and 37 CFR § 1.47[2]. The petition seeks to correct the inventorship of the above-identified application.

The petition under 37 CFR § 1.48 is **GRANTED.**
The petition under 37 CFR § 1.47 is **DISMISSED** as involving moot issues.

The application was filed naming Hai-Quan Wu as the sole inventor. It was later learned that in fact Hai-Quan Wu was not an inventor but that Paolo Andriolo and Michael Panosian were the inventors. Petitioner sought in a petition filed July 24, 2006, under 37 CFR § 1.48(a) to amend the inventive entity by the deletion of Hai-Quan Wu and the addition of Paolo Andriolo and Michael Panosian . Petitioner also sought status under 37 CFR § 1.47(a) arguing that joint inventor Panosian could not be found or reached after diligent effort. Both the petitions under 37 CFR 1.47 and 1.48 were dismissed in a decision mailed October 25, 2006 because the oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37

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[1] 37 CFR § 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from *each person being added* and from each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;
(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;
(3) the fee set forth in 37 CFR 1.17 (I); and
(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

[2] 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.

CFR 1.42, 1.43 or 1.47 wasn't submitted and neither was sufficient proof that the non-signing inventor (Panosian) could not be reached or refused to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings). More specifically, the evidence presented did not show that diligent efforts had been employed to forward a complete copy of the application papers to Mr. Panosian in compliance with item (1) under 37 CFR § 1.47(a).

Comes no petitioner with a declaration signed by the previously non-signing inventor, in compliance with 37 CFR 1.63. In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary. The renewed petition noting joinder of joint inventor Panosian, is **DISMISSED** as involving moot issues. This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

With the petition filed July 24, 2006, petitioners had submitted a statement of lack of deceptive intent executed by Hai-Quan Wu and Paolo Andriolo and an assent of assignee to correction and/or addition of inventor. As well, joint inventor Panosian has executed the statement of lack of deceptive intent. Both Andriolo and Panosian have executed the oath or declaration.

The petition bears proof that the nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48. The inventorship of this application has been changed by the deletion of Hai-Quan Wu as a sole inventor and the addition of Paolo Andriolo and Michael Panosian as joint inventors.

This matter will be referred to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, correction of the file and PTO PALM data to reflect the inventorship as corrected. Thereafter, the matter will be referred to Technology Center 3721.

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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JUL 2 4 2009

OFFICE OF PETITIONS

In re Patent No. 7,303,028	:	
Issued: December 4, 2007	:	
Application No. 11/082,300	:	ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. UDL14.004AUS	:	

This is a decision on the petition under 37 CFR 1.182, filed February 10, 2009, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

Petitioner's deposit account has been charged the duplicate Letters Patent fee of $400.00 as authorized February 10, 2009.

Any questions concerning this matter may be directed to Joan Olszewski at 571-272-7751. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

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JUN 3 0 2009

OFFICE OF PETITIONS

In re Application of
Marie-Claude Gingras et al. :
Application No. 11/082,308 : ON PETITION
Filed: March 17, 2005 :
Title of Invention: **TREM-1 SPLICE VARIANT FOR USE IN MODIFYING IMMUNE RESPONSES** :

This is a decision on the petition filed June 10, 2009, under 37 CFR 1.137(b), to revive the above identified application.

The petition is **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 "Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned January 3, 2007 for failure to file a timely response to the Restriction Requirement mailed November 29, 2006. Accordingly, a Notice of Abandonment was mailed July 31, 2007.

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

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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

While petitioners argue that the delay in filing a timely response to the November 29, 2006 Restriction Requirement was unintentional, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

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

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

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on January 3, 2007. That party, in turn must

explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, counsel of record at the time of abandonment should explain why this application became abandoned while it was under their control and what efforts were made to further reply. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from the attorney of record at the time and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made

clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons, having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Marie-Claude Gingras et al. :
Application No. 11/082,308 : ON PETITION
Filed: March 17, 2005 :
Title of Invention: **TREM-1 SPLICE VARIANT FOR USE IN MODIFYING IMMUNE RESPONSES** :

This is a decision on the renewed petition filed July 14, 2009, under 37 CFR 1.137(b)[1], to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned January 3, 2007 for failure to file a timely response to the Restriction Requirement mailed November 29, 2006. Accordingly, a Notice of Abandonment was mailed July 31, 2007. A petition filed June 10, 2009 was dismissed in a decision mailed June 30, 2009 because while petitioners argued that the delay in While petitioners argued that the delay in filing a timely response to the November 29, 2006 Restriction Requirement was unintentional, the entire delay had not been shown to the satisfaction of the Director to be unintentional.[2]

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

2 There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

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

Comes now petitioner with the instant renewed petition and evidence that the entire delay was unintentional.

The response to the Restriction Requirement mailed November 29, 2006 was filed June 10, 2009. All other requirements under 37 CFR 1.137(b) having met, this matter is being referred to Technology Center 1644 for treatment of the response and for further examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	Decision Noting Joinder of Inventor and
Saito et al.	:	Decision Dismissing Any Request for
Application No. 11/082,310	:	Status Under 37 CFR 1.47 as Moot
Filed: March 17, 2005	:	
Attorney Docket No. 14109	:	

A petition under 37 CFR 1.47 was filed on March 17, 2005. A supplement to the petition was filed on August 5, 2005.

The supplement to the petition includes a Declaration signed by the previously non-signing inventor in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, consideration under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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SEP 21 2006
OFFICE OF PETITIONS

Orum & Roth
53 W. Jackson Blvd.
Chicago IL 60604

In re Application of	:	
Tatsuya Saito et al.	:	
Application No. 11/082,310	:	DECISION ON PETITION
Filed: March 17, 2005	:	TO WITHDRAW
Attorney Docket No. 14109	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

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

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/082,330	03/17/2005	Mark Manning	00001	7984

7590 08/07/2008

Mark Philip Manning
2340 Pacific Avenue # 402
San Francisco, CA 94115

EXAMINER
SKURDAL, COREY NELSON

ART UNIT	PAPER NUMBER
3782	

MAIL DATE	DELIVERY MODE
08/07/2008	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

1. ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
3. ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
4. ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

Betty Powell

Patent Publication Branch
Office of Data Management

FORM PET651D (Rev. 08/07)

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RUBEN C. DELEON
WINSTEAD SECHROST & MINICK P.C.
P.O. BOX 50784
DALLAS TX 75201

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of

VELEZ-RIVERA, et al.
Application No. 11/082,361
Filed: March 17, 2005
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2006.

The request is **APPROVED**.

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

The request was signed by Ross S. Garsson 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: **CARLOS J. VELEZ-RIVERA**
#177 AVE ALGARROBOS, BOX 2905
MAYAGUEZ, PUERTO RICO 00682

cc: **RUBEN C DELEON**
AKIM GUMP STRAUSS HAUER & FELD LLP
1700 PACIFIC AVENUE, SUITE 100
DALLAS, TX 75201

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/082,361	03/17/2005	Carlos J. Velez-Rivera	

CONFIRMATION NO. 1127

OC000000022294422

42013
RUBEN C. DELEON
WINSTEAD SECHROST & MINICK P.C.
P.O. BOX 50784
DALLAS, TX 75201

Date Mailed: 02/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/06/2006.

- 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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: David Patton	: DECISION ON REQUEST FOR
Patent Number	: 7652723	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,370	: 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 **1290** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20080326

DATE : March 26, 2008

TO SPE OF : ART UNIT 3722

SUBJECT : Request for Certificate of Correction on Patent No.: 11/082,379

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: /Monica S. Carter/ **Art Unit** 3722

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JUL 14 2005

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

In re Application of
David I. Cohen et al
Serial No.: 11/082,381
Filed: March 16, 2005
Attorney Docket No.: 51311-00001

: PETITION TO MAKE SPECIAL

This is in response to the petition filed June 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Mail Date: 04/20/2010

Applicant	: Jeffrey Jensen	: DECISION ON REQUEST FOR
Patent Number	: 7666155	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,388	: 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 **523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EDWARD W CALLAN
NO. 705 PMB 452
3830 VALLEY CENTRE DRIVE
SAN DIEGO, CA 92130

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of	:	
An binh Vu, et al.	:	
Application No. 11/082,394	:	DECISION ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. 187-4	:	

This is a decision on the petition, filed May 22, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the non-final Office action mailed September 16, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 29, 2009.

Petitioner asserts that the Office action dated September 16, 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 non-received Office action would have been entered had it been received must be attached to and referenced in the practitioner's statement.

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

The petition fails to satisfy item (2) of the above-stated requirements.

Accordingly, absent the required evidence to establish non-receipt of the Office action of September 16, 2008, 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 $1620 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 April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

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EDWARD W CALLAN
NO. 705 PMB 452
3830 VALLEY CENTRE DRIVE
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

In re Application of
An Binh Vu, et al
Application No. 11/082,394
Filed: 11/082,394
Attorney Docket No. 187-4

DECISION ON PETITION

This is a decision on the renewed petition, filed August 3, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action mailed September 16, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on April 29, 2009.

Petitioner asserts that the Office action dated September 16, 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 non-received 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 3772 for processing of the reply received May 22, 2009.

/dab/
David Bucci
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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/082,396	03/17/2005	Thomas S. Ihbe	59661US005	7751

32692 7590 03/26/2008
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER
MANCHO, RONNIE M

ART UNIT	PAPER NUMBER
3663	

NOTIFICATION DATE	DELIVERY MODE
03/26/2008	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):

LegalUSDocketing@mmm.com
LegalDocketing@mmm.com

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FROM DIRECTOR'S OFFICE

MAR 25 2008

TECHNOLOGY CENTER 3600

3M INNOVATIVE PROPERTIES COMPANY
P.O. BOX 33427
ST. PAUL, MN 55133-3427

In re Application of
Thomas Ihbe et al
Application No. 11/082,396
Filed: March 17, 2005
For: COMMERCIAL VEHICLE OPERATION USING DYNAMIC REBRANDING

DECISION ON THE PETITION REGARDING REQUEST TO WITHDRAW FINALITY

Applicant's petition under 37 CFR 1.181, filed October 25, 2007, requests withdrawal of the finality of the Final office action mailed August 22, 2007.

The petition is **DISMISSED as MOOT**.

A review of the file reveals that a Request for Continued Examination was filed February 19, 2008. Thus, the issue of the premature finality of the August 22, 2007 Office action is moot.

As to the merits argued by the petitioner, note that a thorough review of the Finality has been conducted. Applicant argues that only a single change was made to the claims by the amendment of June 12, 2007. This change was to add the word "computer" to the "rebranding client" limitation of claim 26 to alleviate a problem with the claim being indefinite as pointed out by the examiner. The petitioner argues that in the first Office action of March 12, 2007, the examiner had already interpreted the claim as a "rebranding client computer" based upon the examiner's rejection that indicated that the "rebranding client that accesses the scheduling database" is taught by Ohmura "(server accepts and makes an appointment, sec. 0120, 0121)". Petitioner argues that since the examiner already treated the above-noted limitation as being a computer and using art to reject the limitation that included a computer, the addition of that single word could not have necessitated the new grounds of rejection.

Applicant's amendment of June 12, 2007 to the claim language was limited to the addition of the word "computer". It is agreed that the examiner's non-final Office action did consider the "rebranding client" to be a computer and made the rejection of claim 26 using Ohmura with that interpretation. It is noted that in the remarks attached to the amendment of June 12, 2007, that the applicant did not argue the term "computer" as being a patentable distinction over the reference of Ohmura, but instead argued patentable distinctions over Ohmura of other non-amended portions of the claim. The final rejection of August 22, 2007 abandoned the rejection using Ohmura and rejected applicant's claims using a combination of two previously unapplied references. Clearly, the addition of the term "computer" to claim 26 could not serve as a basis for the amendment filed June 12, 2007 necessitating the new grounds of rejection. The holding of finality of the August 22, 2007 office action was improper. The delay in treating this petition is seriously regretted.

However, in view of the above-noted RCE filing, the petition for withdrawal of the finality is **DISMISSED as MOOT**.

Applicant's filing of the Request for Continued Examination filed February 19, 2008 has been entered and forwarded to the examiner for action.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at (571) 272-6878.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

jwk/snm: 3/19/08

SM

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Irwin C. Alter
Suite 1650
19 S. LaSalle St.
Chicago, IL 60603

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JUL 18 2005

OFFICE OF PETITIONS

In re Application of
Moffa, Cohen, Huyck, Pumell, and Veeropeneni
Application No. 11/082,411
Filed: March 17, 2005
Attorney Docket No. 24039
For: Integrated Seatbelt in a Cantilevered ...

DECISION REFUSING TO ACCORD STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed March 17, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

Petitioner has failed to provide a statement from a party with firsthand knowledge surrounding the constructive refusal of the non-signing inventor to sign the declaration. Ms. Viscarra's statement fails to indicate that she has firsthand knowledge of all the facts contained in the statement. For example, was she the party who mailed a copy of the application to him or the party who sent him emails?

The declaration fails to include language required by 37 CFR 1.63. For example, the declaration signed by the inventors fails to state that the inventors believe they are the original and first inventors of the subject matter in the application or that the inventors have reviewed and understand the contents of the specification. A suggested declaration form is attached.

The signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a). In this case, only Moffa signed the declaration on behalf of the non-signing inventor. In filing a new oath or declaration, petitioner should note that an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor, unless otherwise indicated.

The statement by attorney Alter indicates that Moffa may have signed the assignment on behalf of Huyck. If Moffa signed the assignement on Huycks behalf, the Office notes that the record fails to indicate Moffa has the authority to sign an assignment on behalf of Huyck.

As of November 1, 2004, the fee for a petition under 37 CFR 1.47 was increased to $200.[1] Petitioner submitted $130 for the fee. Therefore, $70 has been charged to petitioner's deposit account for the remainder of the fee.

---

[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).

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 concerning the instant decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Declaration (PTO/SB/01), Additional declaration page (PTO/SB/02A)

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Irwin C. Alter
Suite 1650
19 S. LaSalle St.
Chicago, IL 60603

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of
Moffa, Cohen, Huyck, Pumell, and Veeropeneni
Application No. 11/082,411
Filed: March 17, 2005
Attorney Docket No. 24039
For: Integrated Seatbelt in a Cantilevered ...

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed August 12, 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.

Technology Center Art Until 3636 will be informed of the instant decision so that the application may be examined in due course.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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FROM DIRECTOR'S OFFICE

DEC 3 1 2007

TECHNOLOGY CENTER 3600

Irwin C. Alter
Suite 1650
19 S. LaSalle St.
Chicago, IL 60603

In re Application of: Michael D. Moffa
Appl. No. 11/082411
Filed: 3/17/2005
For: INTEGRATED SEATBELT IN A CANTILEVERED STOWABLE SEAT WITH AN IMPROVED DUMP LOCKING MECHANISM

ON PETITION TO Request Withdrawal of Finality UNDER 37 CFR §1.181

This is a decision on Applicant's Petition under 37 CFR §1.181 filed on October 10, 2007 requesting withdrawal of the finality of the Office action mailed August 15, 2007.

The Petition is **GRANTED.**

The record reflects that on February 22, 2007 a non-final office action was mailed, in which claims 1 and 2 were rejected and claims 3-8 were objected to for being in improper multiple dependent form. On April 16, 2007, applicant filed an amendment amending claim 1 and amending the dependency of some of the dependent claims. On August 15, 2007 a final office action was mailed rejecting claims 1-6 and objecting to claims 7 and 8 for being in improper multiple dependent form.

In the petition filed October 10, 2007, applicant argues that the amendment to claim was made to overcome the claim objection and 35 USC 112, 2nd rejection in the non-final action. Applicant states that the dependent claims were amended to satisfy the objection of improper multiple dependency. Applicant argues that the amendment did not "introduce a new element or change the claim scope." Applicant also argues that the Examiner made a new grounds of rejection under 35 USC 112, 2nd to reject claim 2 and made new art rejections under 35 USC 103 and that the finality of this action was improper as the claim amendments did not necessitate a new grounds of rejections.

37 CFR 1.181(f) states: 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

petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provide. This two-month period is not extendable.

MPEP 706.07 sets forth that the examiner should never lose sight of the fact that in every case the applicant is entitled to a fair and full hearing, and that a clear issue between applicant and examiner should be developed, if possible, before appeal; and that in making the final rejection, they [the grounds of rejection] must be clearly developed to such an extent that applicant may readily judge the advisability of appeal unless a single previous Office action contains a complete statement supporting the rejection. Furthermore, MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Regarding the 35 USC 112, 2nd paragraph rejection of claim 2, this rejection was not necessitated by amendment and was a new grounds of rejection.

Regarding the 35 USC 103 rejections of McClintock et al. in view of Hernandez et al. and Strausbaugh et al. in view of Hernandez et al., these rejections were in fact new rejections that were necessitated by the amendment. As noted in the non-final office action, claims 3-8 could not be treated on the merits as they were improper multiple dependent claims as noted by MPEP 608.01(n). As applicant amended these claims, the examiner was then required to treat them on the merits. Applicant argues that amended claims 3-8 were directed towards "original subject matter left unchanged by the amendment." However, it is noted that the new rejection of these claims was, in fact, necessitated by amendment. The examiner was not able to examine these claims on the merits in the first action as they were presented in an improper form; therefore, once the claims were amended, the examiner was then required to examiner those claims at that point. The examiner cannot be expected to make hypothetical rejections in the first office action to claims where the dependency is unclear and unknown.

However, due to the fact of the new 35 USC 112, 2nd paragraph rejection of claim 2, the finality of the office action was improper. Thus, the petition is hereby granted.

The finality of the office action of August 15, 2007 will be removed. It is noted that the application will remain in rejected status and applicant's time period for response continues to run from the August 15, 2007 mail date.

SUMMARY: The Petition **GRANTED.**

Any questions regarding this decision should be directed to David Dunn at 571-272-6670.

Wynn W. Coggins
Director
Technology Center 3600
571-272-5350

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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/27/2010

Applicant	: John Thommana	: DECISION ON REQUEST FOR
Patent Number	: 7599515	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/082,451	: 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 **966** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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GORDON & REES LLP
101 WEST BROADWAY, SUITE 1600
SAN DIEGO, CA 92101

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JUN 04 2009

OFFICE OF PETITIONS

In re Application of

Espir KAHATT
Application No. 11/082,462
Filed: March 17, 2005
Attorney Docket No. **WNAN 1051716**

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 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

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

All future communications from the Office will be directed to the sole named signing inventor Espir Kahatt at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the Office action mailed September 18, 2008.

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

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

cc: **ESPIR KAHATT, CTO NANOQUOT**
6430 LA VANCO COURT
CARLSBAD, CA 92009

ATTACHMENT: Power of Attorney/Revocation/New Power with Address Change (PTO/SB/81)

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STRAUB & POKOTYLO
788 Shrewsbury Avenue
TINTON FALLS, NJ 07724

Mail Date: 04/21/2010

Applicant	: Takashi Ishikawa	: DECISION ON REQUEST FOR
Patent Number	: 7593148	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,467	: 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 **1173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 14 2005

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

In re Application of
David I. Cohen et al
Serial No.: 11/082,478
Filed: March 16, 2005
Attorney Docket No.: 51311-00009

: PETITION TO MAKE SPECIAL

This is in response to the petition filed June 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

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AKERMAN SENTERFITT
P.O. BOX 3188
WEST PALM BEACH FL 33402-3188

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OFFICE OF PETITIONS

In re Application of	:	
Kavana, Jordan Steven	:	DECISION ON PETITION
Application No. 11/082,484	:	TO WITHDRAW
Filed: March 17, 2005	:	FROM RECORD
Attorney Docket No. 7225-17	:	

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 30, 2005 and December 1, 2005.

The request is **APPROVED**.

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

The request was signed by Mark D. Passler on behalf of all attorneys of record who are associated with Customer Number 30448.

All attorneys/agents associated with Customer Number 30448 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, Jordan Steven Kavana, at the address indicated below.

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.

Liana Chase for
David Bucci
Petitions Examiner
Office of Petitions

Cc:

MR. JORDAN KAVANA
K GROUP INDUSTRIES, LLC
4770 BISCAYNE BLVD., SUITE 980
MIAMI, FL 33137

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of KAVANA

Application No. 11/082,484 Examiner:

Filed: March 17, 2005 Group Art Unit: 2837

For: CONTROL OF FUNCTIONS AND SOUNDS USING ELECTRONIC HAND GLOVE

REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted to the Commissioner for Patents, P O. Box 1450, Alexandria, VA 22313, via facsimile (fax no 571-273-8300) on

12-1-05

Reg No 40,764
Mark D. Passler

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

Sir:

The undersigned hereby applies to withdraw as the attorney or agent on behalf of all of the attorneys and agents of record (associated with Customer No. 30448) for the above-identified patent application. The reason for this request is irreconcilable differences. There are no outstanding deadlines requiring a reply from the Applicant at this time.

Please change the correspondence address and direct all future correspondence to the Applicant in this matter:

Mr. Jordan Kavana
K Group Industries, LLC
4770 Biscayne Blvd., Suite 980
Miami, FL 33137

Telephone No: (305) 576-3339.

Respectfully submitted,

Date: 12-1-05

Mark D. Passler
Registration No. 40,764
AKERMAN SENTERFITT
P. O. Box 3188
West Palm Beach, FL 33402-3188
Telephone: (561) 653-5000

Docket No. 7225-17

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P.O. BOX 234265
ENCINITAS CA 92023

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OFFICE OF PETITIONS

In re Application of :
Randy Palmore, et al. :
Application No. 11/082,494 : ON PETITION
Filed: March 16, 2005 :
Title. CORNER BEAD GUIDING SYSTEM :

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 application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 26, 2006. 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 application became abandoned on June 27, 2005. The Notice of Abandonment was mailed 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 $250; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

A change of address was filed on September 4, 2007. However, since the change of address was not signed by both inventors, the address of record has not been changed. 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 Terri Williams at (571) 272-2991.

The application file is being referred to the Office of Patent Application Processing for further processing.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Randy Palmore**
10900 SW 76 Place, #17
Tigard, OR 97223

cc: **Jeffery Dale**
1174 Susan CT.
Keizer, OR 97303

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RICHARD M. SACCOCIO, P.A.
780 W. TROPICAL WAY
PLANTATION FL 33317

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OFFICE OF PETITIONS

In re Application of	:	
Alfred Dana, III	:	DECISION ON PETITION
Application Number: 11/082511	:	
Filing Date: 03/17/2005	:	
Attorney Docket Number: DANA 2	:	

This is a decision on the petition filed on February 18, 2008, under 37 CFR 1.137(b)[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on June 10, 2007, for failure to timely submit corrected drawings as required by the Notice of Allowability mailed on March 9, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on January 30, 2008.

---

[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(d)).

Receipt of the corrected drawing sheet filed with the present petition is acknowledged.

Receipt of the amendment after allowance filed with the present petition is acknowledged.

The application is referred to Technology Center 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

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OFFICE OF PETITIONS

In re Application of	:	
Orrico et al.	:	
Application No. 11/082,535	:	ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. 15628US02	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 31, 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 response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 3700 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

DATE 2/11/09

APPLICATION NUMBER 11/082,544

DOC CODE COCX

DOC DATE

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090208

DATE : February 13, 2009

TO SPE OF : ART UNIT 1633

SUBJECT : Request for Certificate of Correction on Patent No.: 742531

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: /Joseph Woitach/ Art Unit 1633

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KAPLAN & GILMAN , L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE, NJ 07095

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Blaise Aguera Y. Arcas :
Application No. 11/082,556 : DECISION GRANTING PETITION
Filed: March 17, 2005 :
Attorney Docket No. 489/17 :

This is a decision on the petition filed April 26, 2005, to vacate the "Notice of Omitted Items in Nonprovisional Application (the "Notice").

The petition is **granted**.

On March1 7, 2005, the above-identified application was filed. However, on March 17, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date, but that Figure 5B, as described in the specification, appeared to have been omitted. The Notice set a two-month period for reply.

In response, on April 26, 2005, applicant filed the present petition, a copy of Figure 5B, and an Office date-stamped postcard receipt acknowledging receipt of 9 sheets of the drawings, among other items.

Upon review of the record, nine sheets of drawings where found with the original application papers and a paper labeled "Figure 5B" was found among the drawings. The paper labeled "Figure 5B" appears to be blank, however. It is noted that petitioner indicates in the instant petition and in the specification that "Figure 5B" illustrated what appears to be faint gray dots and that, without close examination, the paper will appear blank. The instant petition is accompanied by a copy of Figure 5B wherein the figure, in the form of gray dots, are circled. It is noted that the page labeled "Figure 5B" that accompanied the original application papers has only two apparent dots. Given the description and clarification of the contents of Figure 5B, it is apparent that Figure 5B accompanied the original application papers. Figure 5B, as filed with the original application papers will be used in further processing the application. Petitioner may wish to file a replacement figure, however, because Figure 5B as filed with the original application papers does not appear to contain all of the gray dots found on the figure filed with the petition.

The application will retain the originally accorded filing date of March 17, 2005, with Figure 5B as part of the original application papers.

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

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 17, 2005, using the 9 sheets of drawings filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield CT 06002

MAIL

MAY 1 0 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Duane Buckingham, et al. :
Application No. 11/082,559 :
Filed: March 17, 2005 :
For: **PROXIMITY WAKE-UP ACTIVATION OF ELECTRONIC CIRCUITS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed February 3, 2006 under M.P.E.P. §708.02, VIII requesting accelerated examination.

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

The petition lacks a copy of each of the references most closely related to the subject matter encompassed by the claims, item (5). A review of the file record finds that copies of the relevant references have not been provided in the instant application.

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration of this decision, he/she should supplement this petition with copies of the prior art referenced in the petition. No further petition fee is required.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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CANTOR COLBURN LLP
55 Griffin Road South
Bloomfield CT 06002

MAIL

JUN 0 2 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Duane Buckingham, et al. :
Application No. 11/082,559 :
Filed: March 17, 2005 :
For: **PROXIMITY WAKE-UP ACTIVATION OF ELECTRONIC CIRCUITS** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition filed May 12, 2006 under M.P.E.P. §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 has, in the combination of original petition and supplement to the original petition, met 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.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Texas Instruments Incorporated
P.O. Box 655474, M/S 3999
Dallas, TX 75265

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OCT 20 2008

OFFICE OF PETITIONS

In re Application of :
Franck Seigneret et al. :
Application No. 11/082,564 : DECISION ON PETITION
Filed: March 17, 2005 :
Attorney Docket No. TI-37692 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to Office communication mailed on February 7, 2008, which set a shortened statutory period for reply of one (1) month or 30 days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 2008. A Notice of Abandonment was mailed on October 2, 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 corrected amendment after non-final, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 2181 for appropriate action by the Examiner in the normal course of business on the reply received October 2, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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MAR 2 3 2006

TECHNOLOGY CENTER 3600

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CANTOR COLBURN, LLP
55 Griffin Road South
Bloomfield, CT 06002

In re application of	:	**DECISION ON PETITION**
Duane W. Buckingham et al.	:	**TO MAKE SPECIAL**
Application No. 11/082,577	:	**(ACCELERATED**
Filed: March 17, 2005	:	**EXAMINATION)**
For: REDUCED POWER ELECTRONIC LOCK SYSTEM		

This is in response to the petition filed on February 21, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (D) above. In this regard, applicants have discussed numerous references, including two U.S. Patents and one European Patent. U.S. Patents do not need to be provided, however Foreign Patents must be, and after completing a review of the application file no copy of the above-noted European reference has been located.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docketed to await treatment on the merits in the normal order of examination.

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

SNM/pav: 03/15/06

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JUN 12 2006

TECHNOLOGY CENTER 3600

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

In re application of Duane W. Buckingham et al. Application No. 11/082,577 Filed: March 17, 2005 For: REDUCED POWER ELECTRONIC SYSTEM	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the supplemental petition filed on May 12, 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 now been met, the petition is **GRANTED**.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dew: 06/08/06

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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
11/082,601	03/16/2005	2859	500	0503-CARB5	9	20	2

CONFIRMATION NO. 7566

CORRECTED FILING RECEIPT

OC000000016112907

50709
DOROTHY S. MORSE
515 PARK DRIVE, NW
BRADENTON, FL 34209

Date Mailed: 05/25/2005

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 S. Carbonaro, Lutz, FL;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/082,601

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Device for mounting decorative and functional items

Preliminary Class

033

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

GRANTED

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

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

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

NOT GRANTED

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/082,634	03/08/2005	2858	500	SCS-3001-CN1	6	15	1

CONFIRMATION NO. 8096

CORRECTED FILING RECEIPT

OC000000016618789

35938
BIOTECHNOLOGY LAW GROUP
C/O PORTFOLIOIP
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Date Mailed: 07/27/2005

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

Applicant(s)

Sanjay V. Patel, San Diego, CA;
Bernd Fruhberger, Encinitas, CA;
Robert J. Warmack, Knoxville, TN;
Todd E. Mlsna, Carlsbad, CA;
David R. Baselt, San Diego, CA;
Erno Klaassen, Sunnyvale, CA;

Power of Attorney: The patent practitioners associated with Customer Number **35938**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/177,133 06/20/2002 PAT 6,864,692

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/082,634

Projected Publication Date: 07/28/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

SENSOR AND SENSOR ARRAY HAVING IMPROVED SELECTIVITY

Preliminary Class

324

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Patel et al.	:	
Application No. 11/082,634	:	ON PETITION
Filed: March 8, 2005	:	
Attorney Docket No. SCS-1001-CT	:	

This is a decision on the petition filed July 21, 2005, requesting that the above-identified application be accorded a filing date of March 8, 2005, rather than the presently accorded date of March 18, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 8, 2005 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ED 619130539 US showing a handwritten "date-in" of "March 8, 2005." The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal." Additionally, the Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated March 8, 2005.

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on March 8, 2005.

The petition is **GRANTED**.

A corrected filing receipt was mailed on July 27, 2005.

This matter is being referred to Technology Center 2800 for consideration of the Supplemental Amendment submitted on July 29, 2005.

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

Frances Hicks

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

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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OFFICE OF PETITIONS

In re Application of :
Hojo et al. :
Application No. 11/082,654 : ON PETITION
Filed: March 18, 2005 :
Title: Disk Playback Apparatus and Disk :
Acceleration Adjusting Method

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 15, 2006.

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

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed April 24, 2006. The Notice set an extendable three month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on April 25, 2006. A Notice of Abandonment was mailed on August 7, 2006.

Petitioner asserts that the non- final Office Action mailed on January 24, 2006 was never received. Petitioner attest that the Office Action was never received. Petitioner states a search of the file jacket and docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of applicant's docket records have been provided.

This application is being forwarded to Art Unit 2627 for re-mailing of the Office Action. The three month extendable time period for reply will be set to run from the mailing date of the re-mailed Office Action.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Manelii Denison & Selter PLLC
2000 M Street
7th Floor
Washington DC, DC 20036

Mail Date: 04/21/2010

Applicant	: Neil W. Harvey	: DECISION ON REQUEST FOR
Patent Number	: 7632062	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,665	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Duft Bornsen & Fishman LLP
1526 Spruce Street
Suite 302
Boulder County, CO 80302

Mail Date: 05/04/2010

Applicant	: Christopher J. McCarty	: DECISION ON REQUEST FOR
Patent Number	: 7689744	: RECALCULATION of PATENT
Issue Date	: 03/30/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/082,673	: OF WYETH
Filed	: 03/17/2005	:
		:

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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Woodcock, Washburn, LLP
Cira Centre, 12th Floor
2929 Arch Street
Philadelphia, PA 19104-2891

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JUN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Larry D. Woodring	:	
Application No. 11/082,684	:	DECISION ON PETITION
Filed: March 17, 2005	:	TO WITHDRAW
Attorney Docket No. BELL-0353/99190C1	:	FROM RECORD
	:	

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 9, 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 Jonathan M. Waldman and all attorneys/agents of record has been revoked by the applicant of the patent application on December 16, 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: AT&T Legal Department - WK
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

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CARDINAL HEALTH
7000 CARDINAL PLACE
LEGAL DEPARTMENT - INTELLECTUAL PROPERTY
DUBLIN OH 43017

In re Application of :
Bougaret, et al. :
Application No. 11/082,720 : ON PETITION
Filed: March 18, 2005 :
Attorney Docket No. RPS6111-C1US :
For: ORAL PHARMACEUTICAL
COMPOSITION FOR SOFT CAPSULES
CONTAINING VINORELBINE AND
METNOD OF TREATMENT

This is a decision on the petition under 37 CFR 1.181, filed October 12, 2006, to withdraw the holding of abandonment.

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

The Office contended that the above-identified application became abandoned for failure to respond to the non-final Office action, mailed November 4, 2005, which set a three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on February 5, 2006. A Notice of Abandonment was mailed on September 12, 2006.

Petitioners allege that the November 4, 2005 non-final Office action was not received at the correspondence address of record.

The showing required to establish non-receipt of an Office communication must include:

1. 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.
2. 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.[1]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the due date would have been entered had the November 4, 2005 non-final Office action been received. In addition, Registered Practitioner Michael Steffensmeier referenced the record in his statement and stated that a review of the file jacket and docket records for the November 4, 2005 non-final Office action was fruitless. In addition, Intellectual Property Administrator Jennifer Warner provided a statement because she was the individual who searched the file jacket and docket records for the non-received correspondence.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

The Request for Correction of Correspondence Address, filed October 12, 2006 will not be entered. Petitioners are informed that effective June 25, 2004, associate powers of attorney were eliminated. Therefore, the October 12, 2006 associate power of attorney empowering Kevin J. Dunleavy cannot be accepted and Mr. Dunleavy's request to change the correspondence address cannot be entered. A courtesy copy of this decision will be mailed to the address listed on the petition.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1618 for consideration of the response to the November 4, 2005 non-final Office action found in the "Remarks" section of the petition filed on October 12, 2006.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: KEVIN J. DUNLEAVY
KNOBLE YOSHIDA & DUNLEAVY, LLC
EIGHT PENN CENTER, SUITE 1350
1628 JOHN F. KENNEDY, JR. BLVD.
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FROM DIRECTORS OFFICE

NOV 22 2005

TECHNOLOGY CENTER 3600

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA, SUITE 303
VALLEY STREAM, NY 11580-6170

In re application of
David S. Breed et al.
Application No. 11/082,739
Filed: March 17, 2005
For: SYSTEM FOR OBTAINING VEHICULAR INFORMATION

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

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

The petition is **GRANTED**.

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

The evidence submitted with the petition is a passport indicating Mr. Breed is at least 65 years of age.

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

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

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

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

RAR/slb: 11/04/05

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

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JAN 21 2009

In re Application of	:	
Shaun Thomas Rigney	:	
Application No. 11/082,750	:	ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. GH 05035	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 10, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed July 27, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 28, 2006.

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

This matter is being referred to Technology Center AU 3747 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Masayoshi Nojiri	: DECISION ON REQUEST FOR
Patent Number	: 7601340	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,769	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1244** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Masayoshi Nojiri	: DECISION ON REQUEST FOR
Patent Number	: 7608251	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,802	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1258** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041
AUSTRALIA

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MAY 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Lapstun et al.	:	
Application No. 11/082,829	:	DECISION ON PETITION
Filed: 18 March, 2005	:	
Atty Docket No. NPA206US	:	

This is a decision on the petition filed on 21 February, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 June, 2005, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 18 April, 2005, which set a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 9 January, 2006.

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

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

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

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

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

Petitioner has filed an executed declaration and late oath or declaration surcharge as the required reply.

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037

In re Application of :
Yuki Nakamura, et al. :
Application No. 11/082,866 : DECISION ON PETITION TO
Filed: March 18, 2005 : MAKE SPECIAL
For: **OPTICAL INFORMATION RECORDING MEDIUM**

This is a decision on the petition filed September 20, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

The petition does not fulfill the requirement in items (5) and (6) in that Applicant is required to submit references deemed most closely related to the subject matter encompassed by the claims, and the references are not fully discussed with the particularity required by 37 C.F.R. § 1.111(b).

For the above stated reasons, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L STREET NW
WASHINGTON DC 20037

In re Application of
Yuki Nakamura, et al.
Application No. 11/082,866
Filed: March 18, 2005
For: **OPTICAL INFORMATION RECORDING MEDIUM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition supplement filed December 5, 2005, which is treated as a request for reconsideration of the petition decision mailed October 5, 2005.

A review of the file record reveals that applicants earlier petition, filed September 20, 2005, pursuant to MPEP §708.02 (VIII), accelerated examination, was denied for failure to fulfill the requirements in that Applicant was required to submit references deemed most closely related to the subject matter encompassed by the claims, and fully discussed with the particularity required by 37 C.F.R. § 1.111(b).

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 combined petition and request for reconsideration, with the supplemented information, satisfies all the above listed requirements.

For the above stated reasons, 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.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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1425 K STREET, N.W.
SUITE 800
WASHINGTON, DC 20005

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FEB 27 2007

OFFICE OF PETITIONS

In re Application of	:
Richard J. Helferich	:
Application No. 11/082,872	: DECISION GRANTING PETITION
Filed: March 18, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0101-154	:

This is a decision on the petition, filed February 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on 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 states that applicant "has recently retained new counsel." However, the record fails to disclose that any new power of attorney documents were submitted. As the petition is not signed by an attorney of record, 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. *See* 37 CFR 1.34. 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 amendment and Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

James David Busch
55 West Monroe Street
Suite 3200
Chicago, IL 60603

Mailing Number: 9-5-2006-027443507
Mailing Date: 2006. 05. 12
Expiring on : 2006. 07. 12

Korean Patent Office
Notification of Submission of Argument

Applicant
Name: Fuji Xerox Co., Ltd. (Applicant's code: 519980964444)
Address: No.17-22, Akasaka, 2-chome, Minato-ku, Tokyo, Japan

Agent
Name: Doo-Hyun MOON and other one
Address: Woochang Bldg.
71-15, Samsung-dong, Kangnam-gu, Seoul, Korea
(Moon & Moon Attorneys' International Patent & Law Office)

Application Number: 10-2005-0022706

Title of the Invention: Picture image forming device, picture image forming system attached with exchangeable unit, and method of controlling picture image forming device

As a result of examination of this application, the reasons for rejection have been found as follows, and the present Office Action is notified to the Applicant under the provision of Article 63 of the Patent Laws. In case of any opinions or amendments, arguments and/or amendments may be filed until the above mentioned expiring date (extension is allowed one month per each time, and a further extension shall not be notified).

[Reason]
1. The inventions set forth in claims 1 to 7, 9 to 13 and 20 of the present application should not be granted a patent under the provision specified in Clause 2 of Article 29 of the Patent Law, since the inventions could have easily been made

by persons who have common knowledge in the technical field to which the inventions pertain, on the basis of the following indications.

[Remark]

1. Claim 1 of this application is recognized as the picture image forming device characterized by including a judging part for judging whether or not an exchange unit is a genuine product, an input part for selecting any one of an actuating mode corresponding to the genuine product and a different actuating mode from the actuating mode, and a control part for controlling in the selected actuating mode. But this is similar in the structure to JP-A-12-284581 (2000.10.13, called as "the cited literature") describing a picture image forming device which stores information, and when a toner supply container having communication means is exchanged, judges whether exchanging is adapted or not, and decides a different picture image forming condition in response to the judged result. Only, a difference is present in that this application further includes the input part, however, the structure at such a level is usual, and could be easily hinted by those skilled, if necessarily, modifying a design from the cited literature for a manual determination.

2. Claims 2 to 7 of the application are characterized by providing a default set, a display part and a detection part, but the structure at such a level is usual, and could be easily hinted by those skilled, if necessarily, modifying a design from the picture image forming device described in cited literature, and the effect thereby could be also presupposed.

3. Claims 9 to 12 of the application request protections in the control method, but those are only different in the category from the picture image forming device requested in claims 1 to 7.

4. Claims 13 to 20 of the application are recognized as the

picture image forming device characterized by providing the memory part, the judgment part, the input part and the control part, and when exchanging a toner supply container described in the cited literature, those judge whether exchanging is adapted or not, and are made correspond to picture image forming conditions differently decided in response to the judged result. Thus, the structure is similar. Only, a difference is present in that this application further includes the input part, however, the structure at such a level is usual, and could be easily hinted by those skilled, if necessarily, modifying a design from the cited literature, and the effect thereby could be also presupposed.

Therefore, claims 1 to 7, 9 to 13 and 20 of the invention of this application are at such levels those skilled could easily make by the cited literature, and the effects thereby could be presupposed.

[Attached]
Attachment 1:
One copy of JP-A-No.12-284581 (2000.10.13)

May 12, 2006

Korean Patent Office
Electric and Electronic Examination Section
Examiner of Electronic Trading Examination Team

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WASHINGTON DC 20005

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Helferich	:	
Application No. 11/082,913	:	ON PETITION
Filed:March 18, 2005	:	
Attorney Docket No. 0101-152	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on 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]

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

The examiner of Technology Center AU 2618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : October 29, 2009

TO SPE OF : ART UNIT 2618 - Nay A. Maung

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/082,913 Patent No.: 7,280,838 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should COCIN dated 10-20-2009 be approved?

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: OK to enter. Approved

/Duc Nguyen/, SPE AU 2618

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Fumihiko Fujishiro	: DECISION ON REQUEST FOR
Patent Number	: 7602449	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/082,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **25** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
BOGLE, Phillip L. et al.	:	
Application No. 11/082,950	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. **40900-0901B**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 23, 2008.

The request is **APPROVED**.

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

The request was signed by Leslie B. Overman on behalf of all attorneys of record who are associated with customer No. 26633. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed July 10, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **PHILLIP L. BOGLE**
15049 SOUTHEAST FIFTY-FOURTH PLACE
BELLEVUE, WASHINGTON, 98008

cc: **JAMES L. DAVISON**
19822 226TH AVENUE N.E.
WOODINVILLE, WA 98077

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1055 THOMAS JEFFERSON STREET, NW
SUITE 400
WASHINGTON, DC 20007

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JUN 15 2009

OFFICE OF PETITIONS

In re Application of
Kazunari Kobayashi et al
Application No. 11/082,961
Filed: March 18, 2005
Attorney Docket No. 5262-007-US01

ON PETITION

This is a decision on the petition filed May 11, 2009 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 formal drawings in a timely manner in reply to the Notice of Allowance mailed January 12, 2009, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on April 13, 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 the formal drawings; (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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P.O. BOX 19928
ALEXANDRIA VA 22320

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of
Takahashi, et al.
Application No. 11/082,971
Filed: March 18, 2005
Attorney Docket No. 123225

DECISION GRANTING PETITION

This is a decision on the petition to withdraw the May 26, 2005 Notice of Incomplete Reply, filed July 5, 2005. The petition will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **GRANTED**.

The application was filed on March 18, 2005. On April 20, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application informing applicants, *inter alia*, that replacement figures were required. In response, applicants submitted, *inter alia*, replacement drawing figures on May 18, 2005. The Office mailed a Notice of Incomplete Reply, stating that Figure 24 was not included in applicants' May 18, 2005 reply.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the Notice of Incomplete Reply be withdrawn because Figure 24 was received in the Patent and Trademark Office (PTO) on May 18, 2005. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing May 18, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing included 31 pages of drawings.

The return postcard constitutes *prima facie* evidence that 31 pages of drawing figures were filed on May 18, 2005. MPEP 503. A review of the pages of drawings filed on May 18, 2005 reveals that only 30 pages are present. Accordingly, the request is granted. The Notice of Incomplete Reply is withdrawn. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 18, 2005**, using copy of replacement Figure 24 re-submitted with the instant petition.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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JUL 14 2005

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

In re Application of
David I. Cohen et al
Serial No.: 11/082,998
Filed: March 16, 2005
Attorney Docket No.: 51311-00008

: PETITION TO MAKE SPECIAL

This is in response to the petition filed June 3, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/083,010	03/17/2005	Toru Hoshino	KON-1991

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK NY 10016

DATE MAILED: November 22, 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 November 15, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

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

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

Barbara J. Debnam
Pre-Grant Publication Division

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United States Patent and Trademark Office
P.O. Box 1450
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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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DEC 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Nagano, et al.	:	
Application No. 11/083,016	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 028849-00031	:	

This is a decision on the petition, filed October 26, 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 nonfinal Office action mailed March 30, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on October 31, 2007.

Petitioner asserts that the Office action dated March 30, 2007 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

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.

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

This application is being referred to the Technology Center technical support staff of Art Unit 2187 for re-mailing the Office action of March 30, 2007. The period for reply will run from the mailing date of the Office action.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Paper No.

Thomas R. FitzGerald, Esq.
Suite 210
16 E. Main Street
Rochester, NY 14614-1808

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of Suzanne Penfold, Craig McGrain and Craig Wilson Application No. 11/083,051 Filed: March 17, 2005 Attorney Docket No. 20001.000251 Title: DISPOSABLE CONDIMENT TRAY HOLDER AND METHOD	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR §1.47, filed July 19, 2005 (certificate of mailing July 15, 2005).

The petition is **GRANTED**.

The above-identified application was filed on March 17, 2005, with an unexecuted declaration and missing the basic filing fees. Accordingly, on April 15, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration in compliance with § 1.63, the missing fees and a surcharge for late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants filed the instant petition; the petition fee; the late surcharge; and a declaration executed by joint inventors Penfold and McGrain on behalf of themselves and on behalf of non-signing joint inventor Craig Wilson. Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Wilson has refused to join in the application. This response was made timely by an accompanying petition and fee for extension of time for response within the first month.

By statement of facts of patent attorney Thomas Fitzgerald, and supporting documentary evidence, rule 47 applicants have shown that inventor Wilson has, by his conduct, refused to join in the application.

The petition includes the last known address of non-signing inventor Wilson.

The declaration filed July 19, 2005, and the petition 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 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.

The application will be examined in Technology Center AU 3728 in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CRAIG WILSON
20 LODGE ROAD
PITTSFORD, NY 14534-4550

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of Suzanne Penfold, Craig McGrain and Craig Wilson Application No. 11/083,051 Filed: March 17, 2005 Attorney Docket No. 20001.000251 Title: DISPOSABLE CONDIMENT TRAY HOLDER AND METHOD	LETTER

Dear Mr. Wilson:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Thomas R. FitzGerald, Esq.
Suite 210
16 E. Main Street
Rochester, NY 14614-1808

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/083,060	03/16/2005	2161	1430	034430-058	22	22	4

CONFIRMATION NO. 5661

CORRECTED FILING RECEIPT

OC000000016939059

Robert E. Krebs
THELEN REID & PRIEST LLP
P.O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 09/02/2005

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

Applicant(s)

Erik C. Thomsen, Cambridge, MA;

Assignment For Published Patent Application

Hyperion Solutions Corp., a Delaware corporation

Power of Attorney:

Robert Krebs--25885
Hal Bohner--27856
Khaled Shami--38745
D. Bommi Bommannan--39452
Steven Robbins--40299
John Schaub--42125
William Winters--42232
Marc Hanish--42626
James Wu--45241
Theresa Moorman--46941

Domestic Priority data as claimed by applicant

This application is a CON of 11/081,121 03/15/2005

Foreign Applications

If Required, Foreign Filing License Granted: 04/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/083,060

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Multiple cell measures user interface

Preliminary Class

707

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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& BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110-1083

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of

THOMSEN, Eric C.
Application No. 11/083,060
Filed: March 16, 2005
Attorney Docket No. **50277-3438**

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) filed January 09, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer No. 73066 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.

The request cannot be approved because there is no indication that the acts noted in the below-identified certifications have been performed.

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).

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **TOWNSEND AND TOWNSEND AND CREW LLP**
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Erik C. Thomsen	: DECISION ON REQUEST FOR
Patent Number	: 7631005	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,060	: 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 **663** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield, CT 06824

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of
Ordille and Stewart
Application No.: 11/083,070
Filed: March 17, 2005
Attorney Docket No: 50428-F-01-US(Ordille)
For: **METHOD AND APPARATUS FOR JUST IN TIME EDUCTAION**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed July 19, 2005(certificate of mailing dated July 15, 2005).

The petition is **GRANTED**.

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

The above-cited application was filed on March 17, 2005, without a properly executed declaration. On April 15, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring, a proper declaration, surcharge, and payment of the filing fee and additional claim fees. The instant petition was filed responsively on July 19, 2005, along with a request for an extension of time within the first month.

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

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

This application will be 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

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

Michael Stewart
9200 Tawny Chase Drive
Raleigh, NC 27617

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AUG 18 2005

OFFICE OF PETITIONS

In re Application of
Ordille and Stewart
Application No.: 11/083,070
Filed: March 17, 2005
Attorney Docket No: 50428-F-01-US(Ordille)
For: **METHOD AND APPARATUS FOR JUST IN TIME EDUCTAION**

: LETTER

Dear Mr. Stewart:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield, CT 06824

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MCDERMOTT WILL & EMERY, LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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DEC 03 2007

OFFICE OF PETITIONS

In re Patent No. 7,071,698	:	
Issue Date: July 4, 2006	:	
Application No. 11/083,089	:	ON PETITION
Filed: March 18, 2005	:	
Patentee(s): Kimihiko Furukawa, et. al.	:	

This is a decision on the petition under 37 CFR 1.183 filed on November 1, 2006, which is being treated as a petition under 37 CFR 3.81[1], to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

This patent file is being forwarded 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) 272-3226. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON DC 20006

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APR 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Tieer GU et al.	:	
Application No. 11/083,097	:	DECISION ON PETITION
Filed: March 18, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 8733.215.21-US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 7, 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.

In regard to the required reference, the specification was amended to include the reference to the prior-filed applications through the Examiner's Amendment accompanying the Notice of Allowance mailed May 16, 2007.

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

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 Christopher Bottorff at (571) 272-6692 or in his absence, the undersigned at 571-272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/083,097	03/18/2005	2813	1430	8733.215.21-US	21	4

CONFIRMATION NO. 6520

CORRECTED FILING RECEIPT

30827
MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

OC000000029313926

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)

Tieer Gu, Troy, MI;
Willem den Boer, Troy, MI;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/052,767 01/23/2002 PAT 6,870,188
which is a CON of 08/671,376 06/27/1996 PAT 6,376,270
which is a DIV of 08/470,271 06/06/1995 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/083,097**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

LCD WITH INCREASED PIXEL OPENING SIZES

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

In re Application of
Tieer Gu, et. al.
Application No. 11/083,097
Filed: March 18, 2005
Attorney Docket No. 8733.215.21-US

DECISION ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due, mailed May 16, 2007. The Notice set a period for reply of three (3) months from the mail date of the Notice. Accordingly, the application became abandoned on August 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and publication fee of $300 (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

As authorized, a total of $1740 ($1440 for the issue fee and $300 for the publication fee) will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2813 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
Petitions Examiner
Office of Petitions

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Wong, Cabello, Lutsch, Rutherford & Brucculeri LLP
20333 SH 249, Suite 600
Houston, TX 77070

Mail Date: 04/21/2010

Applicant	: Mario Zamora	: DECISION ON REQUEST FOR
Patent Number	: 7603264	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,122	: 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 **529** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Jesse W. Hartley	: DECISION ON REQUEST FOR
Patent Number	: 7577479	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,136	: 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 **178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 05/18/2010

Applicant : Jesse W. Hartley
Patent Number : 7577479
Issue Date : 08/18/2009
Application No : 11/083,136
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 **226** 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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RICHARD F. SILVA
933 PIKE SPRINGS RD. (RTE. 113)
P.O. BOX 1041
KIMBERTON PA 19442

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MAR 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Richard F. Silva et al	:	
Application No. 11/083,142	:	DECISION GRANTING PETITION
Filed: March 18, 2005	:	UNDER 37 CFR 1.137(b)
For: AMPHIBIOUS WATER MOTOR	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the required fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of April 19, 2005, is accepted as having been unintentionally delayed.

Additionally, it is noted that petitioner used the form for a PCT application instead of form PTO/SB/64 for a petition to revive under 37 CFR 1.137(b). Nevertheless, the statement of unintentionally delay is accepted for this application.

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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MAIL

JUN 19 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of
OHKAWARA, HISAKAZU. et al
Appl. No.: 11/083,158
Filed: March 18, 2005
For: **IMAGE FORMING APPARATUS**

DECISION ON PETITION

This is a decision on the petition filed May 23, 2008, to expunge information erroneously submitted in the above identified application..

Petitioner asserts that "Applicants received a Notice of Non-Compliant Amendment dated April 25, 2008 in the above-identified application. The Amendment filed on February 1, 2008 appears to be in error, as it was filed by another law firm (Monahan & Moses) and references different subject matter. It appears that the Amendment inadvertently contained the serial number of this case."

"Applicants respectfully request that the Amendment tiled on February 1, 2008 and the April 25, 2008 Notice of Non-Complaint Amendment be expunged from the record of this case, and that the originally filed claims in this case be examined."

A review of the file finds that the Amendment filed February 1, 2008 was improperly matched to the instant application due to the incorrect Serial Number being provided by another law firm. Based upon other identifying information, it can be determined that this Amendment should have been matched to another similar, but different, Application Serial Number.

Accordingly, the petition is **GRANTED**.

The Notice of Non-compliant Amendment, dated April 25, 2008, is hereby vacated and removed (e.g. closed) from the electronic file wrapper. The Amendment filed February 1, 2008 has been removed (e.g. closed) from the electronic file wrapper for the instant application and transferred to the correct application. The application has been forwarded to the examiner for action on the merits in due course.

Michael Horabik
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

Paper No. None

GUNNISON MCKAY & HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY CA 93940

COPY MAILED

AUG 1 5 2005

OFFICE OF PETITIONS

In re Application of
Christof Braun, Quinn A. Jacobson, Shailender Chaudhry, and Marc Tremblay
Application No. 11/083,163
Filed: March 16, 2005
Attorney Docket Number: P-9344
Title: METHOD AND STRUCTURE FOR EXPLICIT SOFTWARE CONTROL OF EXECUTION OF A THREAD INCLUDING A HELPER SUBTHREAD

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed June 17, 2005.

The above-identified application was filed on March 16, 2005, identifying Christof Braun, Quinn A. Jacobson, Shailender Chaudhry, and Marc Tremblay as joint inventors. The declaration which was submitted on filing was not executed by any of the joint inventors. On June 17, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

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

Petitioner has submitted the petition fee, and the associated surcharge, as well as a declaration which has been executed by each of the non-signing joint inventors save Mr. Jacobson. Petitioner also has included copies of several e-mails, where the non-signing inventor expressly stated that the application papers should not be sent to him.

Regarding the fifth requirement, the declaration is not in compliance with 37 C.F.R. §§1.63 and 1.64. The signature block for the non-signing inventor has not been left blank, and has been signed by an unknown party (the signature is illegible, and the name of the signor does not appear in print).

It is noted that the Office records do not show that an assignment for the present application has been recorded. As such, it is likely that the signor was another joint inventor. If this is the case, Petitioner should note MPEP 409.03(a)(A).

As such, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the above-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). 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. 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
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

GUNNISON MCKAY & HODGSON, LLP
1900 GARDEN ROAD
SUITE 220
MONTEREY CA 93940

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OCT 19 2005
OFFICE OF PETITIONS

In re Application of
Christof Braun, Quinn A. Jacobson, Shailender Chaudhry, and Marc Tremblay
Application No. 11/083,163
Filed: March 16, 2005
Attorney Docket Number: P-9344
Title: METHOD AND STRUCTURE FOR EXPLICIT SOFTWARE CONTROL OF EXECUTION OF A THREAD INCLUDING A HELPER SUBTHREAD

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

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed September 19, 2005.

The above-identified application was filed on March 16, 2005, identifying Christof Braun, Quinn A. Jacobson, Shailender Chaudhry, and Marc Tremblay as joint inventors. The declaration which was submitted on filing was not executed by any of the joint inventors. On June 17, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

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

The original petition was submitted on June 17, 2005, and was dismissed via the mailing of a decision on August 15, 2005, for failure to submit a declaration which is in compliance with 37 C.F.R. §§1.63 and 1.64.

With this renewed petition, an acceptable declaration has been provided.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

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DEC 0 7 2007

OFFICE OF PETITIONS

In re Application of	:	
Shohei Omi	:	
Application No. 11/083,165	:	DECISION GRANTING PETITION
Filed: March 16, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2933OK-3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 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 October 31, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3721 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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 OFFICES OF NANCY A. BIRD
231 WALTON AVENUE
SO. ORANGE, NJ 07079

COPY MAILED
NOV 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
John J. Wille	:	
Application No. 11/083178	:	ON PETITION
Filing or 371(c) Date: 03/17/2005	:	
Title of Invention:	:	
PROPHYLACTIC AND	:	
THERAPEUTIC TREATMENT	:	
OF TOPICAL AND	:	
TRANSDERMAL DRUG-INDUCED	:	
SKIN REACTIONS	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), August 3, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers ("Notice"), mailed August 29, 2005. The Notice set a two (2) month 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 30, 2005. A Notice of Abandonment was mailed May 8, 2006.

Applicant files the instant petition and substitute specification in response to the Notice. Accordingly, the petition is granted.

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Wood, et al.	:	
Application No. 11/083,182	:	DECISION
Filed: 16 March, 2005	:	
Attorney Docket No. 0146.03	:	

This is a decision on the petition filed on 1 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 16 June, 2008, with reply due absent extension of time on or before 16 September, 2008.

On 31 October, 2008, Petitioner filed a request and fee for extension of time and an after-final amendment, which the Examiner refused to enter and Petitioner—as one registered to practice

before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance, and on 15 December, 2008, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 16 November, 2008.

The Office mailed the Notice of Abandonment on 4 May, 2009.

On 1 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment and a statement of unintentional delay.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

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[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

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.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1612 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al.	:	
Application No. 11/083,189	:	DECISION ON PETITION
Patent No. 7,145,289	:	PURSUANT TO
Filed: March 17, 2005	:	37 C.F.R. § 3.81(B)
Issue Date: December 5, 2006	:	
Attorney Docket Number: 0553-0232.01	:	
Title: LIGHT-EMITTING DEVICE	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION," filed January 12, 2007, to correct a numerical indicator on the first page of the Letters Patent and the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b). This submission is being treated as a petition pursuant to 37 C.F.R. § 3.81(b)[1],

Petitioner states that two errors appear on the face of the patent: a numerical indicator is listed incorrectly and the Assignee (Semiconductor Energy Laboratory Co., Ltd. of Kanagawa, Japan) was omitted.

The present request pursuant to 37 C.F.R. § 3.81(b) was accompanied by a request for a certificate of correction

Petitioner has asserted that "the errors were made on the part of the Patent Office," however this does not appear to be accurate.

1 See Official Gazette, June 22, 2004.

The issue of the numerical indicator will be held in abeyance pending the resolution of the allegedly omitted Assignee information.

The electronic file has been reviewed: form PTOL-85b has been located, and it is clear that no assignee information was placed thereon. Moreover, it is noted in passing that this form was submitted without a signature.

Additionally, Office records have been reviewed, and it does not appear that an assignment pertaining to this application has been submitted to the Office for recordation.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

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

Petitioner has failed to comply with the provisions of this title, and as such, the request cannot be granted:

- Petitioner has not stated that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent. Furthermore, it does not appear that an assignment was submitted for recordation before issuance of this patent.
- Petitioner has not provided either of the two required fees.

Hence, 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 "Renewed Petition pursuant to 37 C.F.R. § 3.81(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered

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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.

users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

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[6]. 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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3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 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
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SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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DEC 19 2008
OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki et al.	:	
Application No. 11/083,189	:	DECISION ON RENEWED
Patent No. 7,145,289	:	PETITION PURSUANT TO
Filed: March 17, 2005	:	37 C.F.R. § 3.81(B)
Issue Date: December 5, 2006	:	
Attorney Docket Number: 0553-	:	
0232.01	:	
Title: LIGHT-EMITTING DEVICE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 3.81(b),[1] filed on May 2, 2008, to correct a numerical indicator on the first page of the Letters Patent and the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

This renewed petition is **GRANTED**, to the extent that the Assignee's information will be corrected, at Petitioner's expense.

1 See Official Gazette, June 22, 2004.

Petitioner states that two errors appear on the face of the patent: a numerical indicator is listed incorrectly and the Assignee (Semiconductor Energy Laboratory Co., Ltd. of Kanagawa, Japan) was omitted.

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

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

An original petition pursuant to 37 C.F.R. § 3.81(b) was filed on January 12, 2007, and was dismissed via the mailing of a decision on March 31, 2008.

With the original petition, Petitioner did not state that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent. With this renewed petition, Petitioner indicated that this assignment was recorded in the parent application. Office records confirm that the assignment for the parent application was received in the Office on December 22, 2000, which is prior to the payment of the Issue Fee on July 19, 2006.

With this renewed petition, Petitioner has further failed to provide either of the two required fees, due to his stated belief that the "errors were made on the part of the Patent Office."[2] Petitioner's belief is inaccurate, as will now be pointed out.

Petitioner has indicated that the correct Assignee information appears both on the transmittal letter that was provided on filing and on the filing receipt that was provided by the Office. Petitioner will note that MPEP § 1309(II) indicates, in pertinent part:

> The Fee(s) Transmittal form (PTOL -85B) provides a space (item 3) for assignment data which should be completed in order to comply with 37 CFR 3.81. Unless an assignee's name and address are identified in item 3 of the Fee(s) Transmittal form PTOL-85B, the patent will issue to the applicant. Assignment data printed on the patent will be based solely on the information so supplied.

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2 Renewed petition, page 2.

As such, any Assignee indication that appears on either the transmittal letter or the filing receipt is irrelevant to the issue of the printing of assignment data on the patent. Turning to the issue fee transmittal form, with this renewed petition, Petitioner has included a copy from his firm's file - it is noted that Petitioner has not expressly stated this is a copy of the form that was sent to the Office on July 14, 2006.

The copy of the form that Petitioner has provided with this renewed petition contains the assignee information, however, it is obvious that this is not a copy of that which appears in the electronic file. As such, the copy of the issue fee transmittal form which Petitioner has suggested was submitted to the Office on July 14, 2006 **does not appear to be an accurate representation of that which was actually provided to the Office.** A copy of the issue fee transmittal form that was received on July 19, 2006 has been enclosed with this decision, and Petitioner will note that no Assignee information appears thereon.

As such, the Office properly acted in compliance with MPEP § 1309(II), and based the assignment data printed on the patent solely on the information supplied on the issue fee transmittal form. It follows that **the Assignee information was omitted from the face of the patent due to Petitioner's filing error.**

Consequently, both the certificate of correction fee and the processing fee will be charged to Petitioner's Deposit Account in due course, as authorized in this renewed petition.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued.

The Certificates of Correction Branch will determine whether to grant Petitioner's request concerning the modification of the numerical indicator "(76)" to "(75)."

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] Any questions concerning the

---

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.

issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Courtesy Copy of the Issue Fee Transmittal form, as filed.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

000026568 7590 04/21/2006

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

Courtesy Copy

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/083,189	03/17/2005	Shunpei Yamazaki	0553-0232.01	7277

TITLE OF INVENTION: LIGHT-EMITTING DEVICE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300		$1700	07/21/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
ROY, SIKHA	2879	313-506000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
   - ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
   - ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
   (1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
   (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
   1 _____
   2 _____
   3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
- ☒ Issue Fee
- ☒ Publication Fee (No small entity discount permitted)
- ☒ Advance Order - # of Copies 10

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
- ☒ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

07/20/2006	00000115	1	1501	$1,400.00	07/19/2006	CK
07/20/2006	00000116	1	1504	$300.00	07/19/2006	CK
07/20/2006	00000117	1	8001	$30.00	07/19/2006	CK

OMMERCE

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BRINKS, HOFER, GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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JUL 27 2009

OFFICE OF PETITIONS

In re Application of
Markus Buck, et al.
Application No. 11/083,190
Filed: March 17, 2005
Attorney Docket No. 11336-932 (P04091US)

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 15, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others

The request cannot be approved because the practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond. The failure to do so may subject the practitioner to discipline. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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 July 2, 2009 does not include the reel and frame number or a proper chain in title.

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

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

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

Attachment: Blank copy of PTOL/SB/83 Form

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHRIDGE, CA 91329

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

JAN 26 2006

Levisohn, Berger & Langsam LLP
805 Third Avenue
19th Floor
New York, NY 10022

In re application of Donald Eckloff Application No. 11/083,194 Filed: March 17, 2005 For: RACK AND SHELF SYSTEM FOR CARGO VEHICLES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 17, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

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

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

SNM/pav: 01/24/06

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Levisohn, Berger & Langsam LLP
19th Floor
805 Third Avenue
New York, NY 10022

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JUL 17 2006
OFFICE OF PETITIONS

In re Application of :
Donald Eckloff :
Application No. 11/083,194 :
Filed: March 17, 2005 :
Attorney Docket No. 6046.005 :

This is a decision in response to the Petition to Revive, filed November 21, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed April 27, 2005, which set a two (2) month period for reply. No response having been received, the application became abandoned on June 28, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has filed a reply to the Notice. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 3612 for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

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ROBERT E. BUSHNELL & LAW FIRM
2029 K STREET NW, SUITE 600
WASHINGTON, DC 20006-1004

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JAN 21 2009

In re Application of	:	
Ramesh **KAKKAD, et al.**	:	
Application No. 11/083,203	:	DECISION DISMISSING PETITION
Filed: March 18, 2005	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. **P57427**	:	

This is a decision on the petition under 37 CFR 1.313(a), filed January 14, 2009, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on October 14, 2008, with the issue fee being due on or before January 14, 2009. The petition states that the issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-7253.

The matter is being referred to Technology Center AU 2812 for appropriate processing of the RCE filed January 14, 2009, and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/083,204	03/17/2005	Einat Amitay	IL920050005US1	7959

7590 06/09/2010

Stephen C. Kaufman
IBM CORPORATION.
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

EXAMINER
QUADER, FAZLUL

ART UNIT	PAPER NUMBER
2164	

MAIL DATE	DELIVERY MODE
06/09/2010	PAPER

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

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

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Stephen C. Kaufman
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

In re Application of:)
Einat AMITAY et al.)
Application No. 11/083,204
Filed: March 17, 2005
For: METHOD AND SYSTEM FOR ASSESSING QUALITY OF SEARCH ENGINES

DECISION SUA SPONTE WITHDRAWING OFFICE ACTION

This is a decision, *sua sponte*, withdrawing the Notice of Abandonment mailed 06 May 2010.

A review of the application indicates that applicant filed both an amendment after a non-final Office Action of 12 May 2009 and a Notice of Appeal on 10 August 2009 and in response to the Notice of Appeal and the amendment of 10 August 2009, the examiner issued an Advisory Action ***After*** the Filing of an Appeal Brief on 28 April 2010. It is pointed out that the amendment of 10 August 2009 should have been considered as a response ***prior*** to filing of Notice of Appeal and the mailing of Advisory Action After the Filing of an Appeal Brief on 28 April 2010 was not appropriate at the time.

For the above stated reason, the Notice of Abandonment mailed on 06 May 2010 is hereby withdrawn and vacated.

The application has been returned to examiner of record to consider the amendment filed 10 August 2009 and issue an appropriate Office Action.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Wendy R. Garber, Director
Technology Center 2100
Computer Architecture and Software

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IBM CORP (AP)
C/O AMY PATTILLO
P. O. BOX 161327
AUSTIN TX 78716

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
Beadle, et al.
Application No. 11/083,212
Filed: March 17, 2005
Attorney Docket No. AUS920040758US1
For: DISTRIBUTING MESSAGING SESSION LOGS TO USERS ENTERING AN ALREADY ONGOING MESSAGING SESSION

ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed June 20, 2005 (certificate of mailing date June 16, 2005), requesting, in effect, that the Notice of Omitted Items in a Nonprovisional Application (Notice), mailed April 4, 2005, be withdrawn.

The petition is **dismissed**.

The application was filed on March 17, 2005. However, on April 4, 2005, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of March 17, 2005, and advising applicants that Figure 11 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners assert that Figure 11 was filed on March 17, 2005, but misnumbered along with two other figures.

The petition does not allege and is not accompanied by any evidence that any sheet of drawings containing the label Figure 11 was present in the Office on March 17, 2005.

Therefore, the "Notice" mailed April 4, 2005, was correct in advising applicants that Figure 11 appeared to have been omitted. The "Notice" was properly mailed and will not be withdrawn. The $400.00 petition fee is required and was charged to deposit account no. 09-0447, since the petition was not necessary to correct any PTO error.

To avoid further delay in the examination of the application, an amendment directed to the attention of the draftsman correcting the labeling of Figures 9 and 11 and renumbering the blocks in new Figure 10 and new Figure 11 should be filed prior to the first Office action.

The application is being returned the Office of Initial Patent Examination for further processing with the presently accorded filing date of March 17, 2005. The substitute formal drawings filed on June 20, 2005 (certificate of mailing date June 16, 2005) will not be processed at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Ralph T. Hoctor	: DECISION ON REQUEST FOR
Patent Number	: 7621876	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,259	: 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 **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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OFFICE OF PETITIONS

In re Application of	:	
Alan Daniel Brown et al	:	
Application No. 11/083,265	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. PC32198A	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed August 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 were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on September 15, 2006. A Notice of Abandonment was mailed on March 19, 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 and an amendment, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of August 14, 2006 is accepted as being 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 $2,160 extension of time fee submitted with the petition on March 26, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

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

This application is being referred to Technology Center AU 1626 for appropriate action in the normal course of business on the reply received March 26, 2007.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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In re Application of :
Shinichiro Oguni :
Application No. 11/083,281 : LETTER REGARDING
Filed: March 17, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 11333/75 :

This is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT," filed July 21, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment pursuant to 35 U.S.C. 154(b) of 4 days may extend the term of the patent by too many days.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On April 28, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 4 days. Applicants do not state a basis for their disclosure that the patent term adjustment may extend the term by too many days.

Nonetheless, a review of the application history confirms that the initial determination of patent term adjustment is incorrect. Additional periods of reduction of 35 and 60 days should have been entered. 37 C.F.R. § 1.704(b) provides:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

First, a Notice to File Corrected Application Papers was mailed on April 18, 2005. Applicants took until August 22, 2005, three months and 35 days later, to file a complete and proper response. Accordingly, pursuant to 37 CFR 1.704(b), a period of reduction of 35 days should have been entered.

Second, a final Office action was mailed on October 19, 2007. Applicants took until March 19, 2008, three months and 60 days later, to file a request for continued examination (RCE) and submission in response. Accordingly, pursuant to 37 CFR 1.704(b), a period of reduction of 60 days should have been entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (including 96 days of Office delay and 187 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks Applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Office of Data 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 the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Sunday
Date: 12/21/2008

PALM INTRANET

Time: 13:56:50

PTA Calculations for Application: 11/083281			
Application Filing Date:	03/17/2005	PTO Delay (PTO):	96
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-95		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
71	12/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
70	12/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		60	
54	04/28/2008	MAIL NOTICE OF ALLOWANCE			
53	04/26/2008	ISSUE REVISION COMPLETED			
52	04/26/2008	DOCUMENT VERIFICATION			
51	04/26/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	04/26/2008	CASE DOCKETED TO EXAMINER IN GAU			
49	04/26/2008	NOTICE OF ALLOWABILITY			
48	04/21/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	03/26/2008	DATE FORWARDED TO EXAMINER			
41	03/19/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
40	03/26/2008	DATE FORWARDED TO EXAMINER			
39	03/19/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
38	03/26/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	03/19/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	03/19/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	01/30/2008	CASE DOCKETED TO EXAMINER IN GAU			
34	12/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
33	10/19/2007	MAIL FINAL REJECTION (PTOL - 326)			
32	10/15/2007	FINAL REJECTION			
31	08/27/2007	DATE FORWARDED TO EXAMINER			
30	08/21/2007	RESPONSE AFTER NON-FINAL ACTION		92	28

29	08/21/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
28	02/21/2007	MAIL NON-FINAL REJECTION	31		23
27	02/15/2007	NON-FINAL REJECTION			
25	03/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	01/24/2007	DATE FORWARDED TO EXAMINER			
23	09/21/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
22	09/21/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	10/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	07/21/2006	MAIL RESTRICTION REQUIREMENT	65		-1
19	07/18/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
18	03/17/2006	REFERENCE CAPTURE ON IDS			
16	06/05/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	06/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	06/04/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/17/2005	REFERENCE CAPTURE ON IDS			
12	03/17/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11.7	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	04/19/2006	TRANSFER INQUIRY TO GAU			
9	09/01/2005	APPLICATION DISPATCHED FROM OIPE			
8	09/01/2005	APPLICATION IS NOW COMPLETE			
7	08/22/2005	ADDITIONAL APPLICATION FILING FEES			
6	08/22/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	04/18/2005	CORRECTED PAPER			
3	04/08/2005	CLEARED BY OIPE CSR			
2	03/30/2005	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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10-18-07

TO SPE OF : ART UNIT 1618

SUBJECT : Request for Certificate of Correction for Appl. No. 11/083,306 Patent No.: RE.39,502

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 check cols

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

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE — Art Unit 1618

MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER

OIPE IAP44
AUG 24 2007
PATENT & TRADEMARK OFFICE

PATENT
Docket No. 1662/523021

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	:	RE 39,502	Application No. 11/083,366
Applicant(s)	:	FOX et al.	Customer No. 23838
Filed:	:	17 March 2005	Confirmation No. 6651
Art Unit	:	1652	
Title:	:	STABLE PHARMACEUTICAL COMPOSITIONS CONTAINING 7-SUBSTITUTED-3,5-DIHYDROXYHEPTANOIC ACIDS OR 7-SUBSTITUTED-3,5-DIHYDROXYHEPTENOIC ACIDS	
Examiner	:	B. Fubara	

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK to enter
8/28/07

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. § 1.323

S I R:

Patentee hereby requests the issuance of the enclosed Certificate of Correction for the above-identified patent. These errors were mistakes made by the Patent and Trademark Office.

These corrections do not constitute new matter or require reexamination. The corrections are listed on the attached Form PTO-1050 which is submitted in duplicate. Because these errors were mistakes by the Patent and Trademark Office, no fee is required. However, if any fee is required, please charge it to Deposit Account No. 11-0600 (Kenyon & Kenyon LLP).

Date: 24 Aug. 2007

Respectfully submitted,

Steven S. Yu
Reg. No. 58,776

Certificate
AUG 28 2007
of Correction

KENYON & KENYON LLP
1500 K Street, N.W., Suite 700
Washington, DC 20005
Tel: (202) 420-4200
Fax: (202) 420-4201

AUG 28 2007

DC 672412

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DANIEL P. BURKE, ESQ.
GALGANO & BURKE, LLP
SUITE 135
300 RABRO DRIVE
HAUPPAUGE, NY 11788

COPY MAILED

JUL 2 0 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Randy Miller :
Application No. 11/083,377 :
Filed: March 18, 2005 :
Attorney Docket No. 1663-2CON :

This is a decision on the papers styled, "Response to Notice of Omitted Items in a Nonprovisional Application," filed June 20, 2005, which has been treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of March 18, 2005, including Figure 4 described in the specification.

The application was submitted on March 18, 2005. However, on April 20, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Nonprovisional Application," (Notice) that stated the application had been accorded a filing date, and that Figure 4 described in the specification, appears to have been omitted.

In response, on June 20, 2005, the instant petition and a copy of Figure 4 were submitted.

However, petitioner has not submitted the required petition fee. *See* 37 CFR 1.17(f). The fee is required before the petition will be reviewed on the merits.

Accordingly, the petition is dismissed.

Any request for reconsideration should be filed within TWO MONTHS of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136.

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

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

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

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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DRW Sep-07

DANIEL P. BURKE, ESQ.
GALGANO & BURKE, LLP
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300 RABRO DRIVE
HAUPPAUGE NY 11788

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OFFICE OF PETITIONS

In re Application of Randy Miller Application Number: 11/083377 Filing Date: 03/18/2005 Attorney Docket Number: 1663-2CON	: : : : : :	DECISION ON PETITION

This is a decision on the "RESPONSE TO COMMUNICATION REGARDING PETITION MAILED JULY 20, 2005," filed on 25 August, 2005, which is treated as a renewed petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 18 March, 2005, with one (1) sheet of drawings containing Figure 4 described in the specification as a part of the original disclosure.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioner.

The petition is granted.

The application was filed on 18 March, 2005.

Accordingly, on 20 April, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 20 April, 2005, but that Figure 4 described in the specification appeared to have been omitted.

A petition in response to the Notice of Omitted Items was filed on 20 June, 2005, but was dismissed on 20 July, 2005, for failure to provide the required petition fee.

In response, on 24 August, 2005, the subject petition and authorization to charge the petition fee to counsel's deposit account were filed.

On 20 June, 2005, a copy of six (6) sheets of drawings containing Figures 1-6 were filed. Petitioners argue that Figure 4 was filed with the other application papers on 18 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 "031805" and the above-identified application number, and identifies the application by the attorney docket number, part of the invention title, and the inventor's name, and acknowledges receipt of, *inter alia*, "Patent Application, claims and Drawings 6". Petitioners request that the application, including one (1) sheet of drawings containing Figure 6 be accorded a filing date of 18 March, 2005.

A review of the record reveals that 5 sheets of drawings containing Figures 1, 2, 3, 5, and 6 were received on 18 March, 2005. No Figure 4 is located among the drawing figures received on that date. However, the evidence is convincing that the application papers deposited on 18 March, 2005, included one (1) sheet of drawings containing Figure 4, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 4, is entitled to a filing date of 18 March, 2005.

The "Notice" mailed on 18 March, 2005, is vacated.

In view of the above, the petition is granted. The petition fee will not be charged as the petition was necessitated by Office error.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 4 supplied on 20 June, 2005, as a part of the original disclosure. The copies of other application papers supplied with the present petition will not be used for processing or examination, but will be retained in the application file.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of 18 March, 2005, using the application papers filed on that date and the copy of one (1) sheet of drawings containing Figure 4 supplied with the present petition, and for an indication in Office records that six (6) sheets of drawings were present on filing.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

Mail Date: 04/21/2010

Applicant	: Gregor Christian Endres	: DECISION ON REQUEST FOR
Patent Number	: 7666493	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,386	: 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 **338** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN, ME 04444-0726

Mail Date: 04/21/2010

Applicant	: Gregor Christian Endres	: DECISION ON REQUEST FOR
Patent Number	: 7658810	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,390	: 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 **1364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FOLEY & LARDNER
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

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OFFICE OF PETITIONS

In re Application of	:	
Wiant, et al.	:	
Filed: March 18, 2005	:	ON PETITION
Application No. 11/083,423	:	
Docket No.: 089339-0406	:	

The decision is in response to the petition under 37 C.F.R. § 1.182 filed July 12, 2005 to accord this application a filing date of March 18, 2005.

The application was filed March 18, 2005. The Notice of Omitted Items in a Nonprovisional Application (Notice) mailed May 13, 2005 by the Office of Initial Patent Examination indicated that the application had been accorded a filing date but Figures 3-8 as described in the application appeared to have been omitted from the application as filed.

In response, the present petition was filed wherein petitioner argues that the application as deposited included Figures 3-8.

Upon review of the official application file, Figures 3-8 have been located in the official application file. Therefore, the application was complete on filing.

The Notice mailed May 13, 2005 was mailed in error and is hereby WITHDRAWN. The petition to accord the application a filing date of March 18, 2005 is hereby GRANTED.

No petition fee is due in connection with this matter. A refund of the previously submitted $400.00 petition fee has been requested from the Finance Office, Refund Branch on petitioners' behalf.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 18, 2005 and an indication in Office records that Figures 1-8 was present upon filing of the application.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
WIANT et al.	:	
Application No. 11/083,423	:	DECISION ON APPLICATION
Filed: March 18, 2005	:	FOR
Atty Docket No. 089339-0406	:	PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed October 23, 2007. Applicants request correction of the patent term adjustment from two hundred eighty six (286) days to three hundred thirteen (313) days.

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **three hundred thirteen (313) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 30, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date was 286 days. Applicants timely filed the instant application for patent term adjustment[1]. Applicants

[1] PALM Records indicate that the Issue Fee payment was received on November 29, 2007.

dispute the reduction of 27 days for applicants' delay in responding to the Notice of Omitted Item(s) in a Nonprovisional Application mailed on May 13, 2005.

Applicants indicate that the Office mailed a Notice of Omitted Item(s) in a Nonprovisional Application on May 13, 2005, stating that Figures 3-8 appeared to have been omitted. Applicants state that on July 12, 2005, they filed a Petition Under 37 CFR 1.182, asserting that the figures were in fact deposited with the USPTO on March 18, 2005. In support of their assertion, applicants submitted a copy of the omitted figures and a copy of the return postcard receipt with a USPTO date-stamp of March 18, 2005. Applicants note that on September 9, 2005, the Office mailed a decision granting the petition and indicating that the Notice of Omitted Item(s) was mailed in error and was withdrawn. Applicants further note that the Office subsequently issued a "Withdrawal of Previously Sent Notice," which stated that the Notice of Omitted Item(s) had been withdrawn. Therefore, applicants assert that they did not fail to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 CFR 1.704(b) because the Notice of Omitted Item(s) was withdrawn as a result of USPTO error.

A review of record support a conclusion that the reduction of 23 days disputed by applicants is not warranted. This conclusion is not based upon applicants' argument that the Notice of Omitted Item(s) was withdrawn. The reduction of 27 days was entered, pursuant to 37 CFR 1.704(b), for applicants taking in excess of three (3) months to respond to the Notice of Omitted Item(s) mailed May 13, 2005. This reduction is not warranted because applicants filed a complete response to the Notice with the petition filed on July 12, 2005. (No response was filed on September 9, 2005. The petition was granted on that date). As a complete response was filed within the three month period under 37 CFR 1.704(b), the Office should not have assessed applicants a delay of 27 days.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance is **313 days**.

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

The application is being referred 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 and is cut-off by virtue of the filing of a request for continued examination).

Telephone inquiries specific to this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day : Tuesday
Date: 1/15/2008

PALM INTRANET

Time: 17:47:50

PTA Calculations for Application: 11/083423			
Application Filing Date:	03/18/2005	PTO Delay (PTO):	313
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	27
Post-Issue Petitions:	0	Total PTA (days):	313
PTO Delay Adjustment:	27		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
35	01/15/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	27		
28	08/30/2007	MAIL NOTICE OF ALLOWANCE			
27	08/29/2007	ISSUE REVISION COMPLETED			
26	08/27/2007	DOCUMENT VERIFICATION			
25	08/29/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	08/29/2007	NOTICE OF ALLOWABILITY			
21	06/07/2007	SUBSTITUTE SPECIFICATION FILED			
20	06/20/2007	DATE FORWARDED TO EXAMINER			
19	06/07/2007	RESPONSE AFTER NON-FINAL ACTION			
18	03/27/2007	MAIL NON-FINAL REJECTION	313		-1
17	03/22/2007	NON-FINAL REJECTION			
16	01/04/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	01/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	03/18/2005	PRELIMINARY AMENDMENT			
13	08/31/2006	TRANSFER INQUIRY TO GAU			
12	11/15/2005	APPLICATION DISPATCHED FROM OIPE			
11	11/15/2005	APPLICATION IS NOW COMPLETE			
10	03/18/2005	DRAWING PRELIMINARY AMENDMENT			
9	09/09/2005	ADDITIONAL APPLICATION FILING FEES		27	5
8	05/13/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
7	09/09/2005	MAIL-PETITION DECISION - GRANTED			
6	07/12/2005	PETITION ENTERED			
5	05/13/2005	NOTICE OF OMITTED ITEMS			
3	04/09/2005	CLEARED BY OIPE CSR			
2	03/31/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			

1	03/18/2005	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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SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA PA 19103

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APR 10 2007

OFFICE OF PETITIONS

In re Application of

STOVOLD, Terry
Application No. 11/083,449
Filed: March 18, 2005
Attorney Docket No. **3006389-0004-CIP**

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 16, 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 Joan T. Kluger on behalf of all attorneys of record who are associated with customer No. 22469. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **TERRY STOVOLD**
177 FARRELL ROAD
SARANAC, NY 12981

cc: **TERRY STOVOLD**
NOCOPI TECHNOLOGIES, INC.
2135 RIVERGRASS, CT.
RALEIGH, NC 27610

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/083,449	03/18/2005	Terry Stovold	3006389-0004-CIP

CONFIRMATION NO. 1225

OC000000023285481

22469
SCHNADER HARRISON SEGAL & LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA, PA 19103

Date Mailed: 04/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/16/2007.

- 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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TUSTIN CA 92782

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OFFICE OF PETITIONS

In re Application of	:	
Chaochi Huang et al	:	
Application No. 11/083,456	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. PAT-1585CIP	:	

This is a decision on the petition, filed February 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on December 26, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2859 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/083,459	03/18/2005	2643	1150	4366-224	4	23	3

CONFIRMATION NO. 1175

CORRECTED FILING RECEIPT

OC000000015964050

48500
SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

Date Mailed: 05/06/2005

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

Applicant(s)

Alexander John Gary Beck, Freches Forest, AUSTRALIA;
Jonathan R. Yee-Hang Choy, Wahroonga, AUSTRALIA;
Alexander Martin Scholte, Phegans Bay, AUSTRALIA;
David Preshan Thambiratnam, Ashfield, AUSTRALIA;

Assignment For Published Patent Application

Avaya Technology Corp., Basking Ridge, NJ

Power of Attorney:

David Volejnicek--29355
Marc Foodman--34110
Brian DiNicola--36122
Douglas Swartz--37739
Russell Binns Jr--41620
Brian Lefort--43747
Bradley Knepper--44189
Dennis Dupray--46299
Kenneth Chan--55046

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/083,459

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Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Dynamic layout of participants in a multi-party video conference

Preliminary Class

348

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

Mail Date: 04/21/2010

Applicant	: Nobuyuki Takamori	: DECISION ON REQUEST FOR
Patent Number	: 7651832	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,463	: 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 **1350** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of Selim Bencuya, Richard Mann and Hiok-Nam Tay Application No. 11/083,466 Filed: March 17, 2005 Title: METHOD AND SYSTEM FOR RESETTING IMAGE SENSORS	: : : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 17, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The required petition fee will be charged to deposit account no. 50-0731.

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/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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HIOK-NAM TAY
6 MOUNT VERNON
IRVINE, CA 92620

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MAY 1 3 2005

OFFICE OF PETITIONS

In re Application of
Selim Bencuya, Richard Mann and Hiok-Nam Tay
Application No. 11/083,466
Filed: March 17, 2005
Title: METHOD AND SYSTEM FOR RESETTING IMAGE SENSORS

Dear HIOK-NAM TAY:

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/Patent
United States Patent and Trademark Office

FARJAMI & FARJAMI LLP
26522 LA ALAMEDA AVENUE, SUITE 360
MISSION VIEJO, CA 92691

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Brij K. Agarwal
Eckert Seamans Cherin & Mellott, LLC
44th Floor
600 Grant Street
Pittsburgh, PA 15219

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of :
Thanh Vuong et al. :
Application No. 11/083,477 :
Filed: March 18, 2005 :
Attorney Docket No. 291010-00240 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 7, 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 final Office action mailed, February 22, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 23, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

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 an amendment; (2) the petition fee of $1540.00; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050 extension of time fee submitted with the petition November 7, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

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

This application is being referred to Technology Center AU 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.

Andrea Smith
Petitions Examiner
Office of Petitions

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1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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OCT 20 2008

OFFICE OF PETITIONS

In re Patent No. 7,349,504,	:	
Issue Date: March 25, 2008	:	
Application No. 11/083,478	:	NOTICE
Filed: March 18, 2005	:	
Attorney Docket No. NNT-001 (0370-0414C)	:	

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**.

No petition fee is required under 37 CFR 1.28(c). Accordingly, the $130.00 petition fee submitted on March 12, 2008 will be credited to petitioner's deposit account as authorized.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Mark T. Van Horn et al	:	
Application No. 11/083,506	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 2269-4403.8US0209.08/US	:	

This is a decision on the petition, filed August 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 27, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2858 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE: A. Hirshfeld

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/07

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/083,506 Patent No.: 7199593

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

ADH
6/19/2007

SPE

2858
Art Unit

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JUL 0 5 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

MCDERMOTT WILL & EMERY LLP
ATTN: INTELLECTUAL PROPERTY DEPTARTMENT DOCKETING
28 STATE STREET
BOSTON MA 02109

In re Application of	:	
Anatoli B. Stein	:	
Application No. 11/083,532	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO MAKE SPECIAL
For: **LOW IMPEDANCE READ AMPLIFIER FOR MAGNETORESISTIVE HEAD**	:	

This is a decision on the petition to make special filed June 03, 2005 under 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 by inventor; Anatoli B. Stein evidencing that he is over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

In re
Stein, et al.
Application No. 11/083,532
Filed: March 18, 2005
Patent No. 7,061,321
Issued: June 13, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed December 15, 2009.

The fee deficiency submission under 37 CFR 1.28 of $490 for the first maintenance fee is hereby **accepted**.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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OFFICE OF PETITIONS

In re Patent No. 7,095,368 :
Issue Date: August 22, 2006 :
Application No. 11/083,541 : ON PETITION
Filed: March 18, 2005 :
Attorney Docket No. **18973US01** :

This is with regard to the "Petition to Correct Assignee under 37 CFR 3.81" filed April 9, 2007.

The request is **dismissed**.

The request under 37 CFR 3.81 must be accompanied by the request Certificate of Correction. No Certifciate of Correction was filed with the petition. It is noted that Certificates of Correction were filed on September 11, 2006, and November 27, 2006, both which requested correction of the assignee data. These Certificate of Corrections will not be used for the instant request because the information provided on certificates differs between the two. The renewed petition should be accompanied by Certificate of Correction that affirmatively indicates the requested corrections.

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

NOTICE

In re Patent No. 7,095,368 :
Issue Date: August 22, 2006 :
Application No. 11/083,541 :
Filed: March 18, 2005 :
Attorney Docket No. 18973US01 :

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 is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

K. A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/09

TO SPE OF : ART UNIT 3732

SUBJECT : Request for Certificate of Correction for Appl. No.: 11083566 Patent No.: 7588571

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: _____

/Eduardo C. Robert/ 3733

SPE **Art Unit**

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/27/2010

Applicant	: Ron Anthon Olsen	: DECISION ON REQUEST FOR
Patent Number	: 7588571	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/083,566	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PENNSYLVANIA STATE UNIVERSITY
801 GRAND AVENUE, SUITE 3200
DES MOINES, IA 50309-2721

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SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Robertson et al.	:	
Application No. 11/083,583	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. P06710US01	:	

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

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 26, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned by operation of law on November 27, 2008. *See* MPEP 1215.04. A Notice of Abandonment was mailed May 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), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 1635 for appropriate action by the Examiner in the normal course of business on the reply received August 11, 2009.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/083,590	03/18/2005	Menzo Jans Emco Havenga	2578-5006.2US

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

DATE MAILED: July 27, 2007

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

This is in response to the petition under 37 CFR 1.138(d) filed on July 3, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

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

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 305-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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In re Application of VAN HORN, et al. Application No. 11/083,591 Filed: March 18, 2005 Attorney Docket No. 2269-4403.7US (00-0209.07	: : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 17, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 27, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

FAP EMAIL

FEB 2 1 2007

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

TRASK BRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

RECEIVED
OCT 3 0 2006
TRASKBRITT, P.C.

COPY MAILED
OCT 2 5 2006
OFFICE OF PETITIONS

In re Application of
VAN HORN, et al.
Application No. 11/083,591
Filed: March 18, 2005
Attorney Docket No. 2269-4403.7US (00-0209.07

DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 17, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 27, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to Patricia Volpe at 571-272-6825.

This application is being referred to Technology Center AU 2858 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK NC 27709

COPY MAILED
JAN 15 2009

In re Application of	:	
Dieffenderfer, et al.	:	ON PETITION
Application No.: 11/083,615	:	
Filed: March 18, 2005	:	
Attorney Docket No.: RPS920040158US1(4090)	:	

This is a decision on the petition under 37 CFR 1.47(a), filed March 18, 2005. The petition was only recently forwarded to the Office of Petitions.

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 petition fee, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), applicants have failed to establish that Mr. Dieffenderfer and Mr. Speier have refused to join in the filing of the above-identified application.

The Office requires that the non-signing inventors be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The statement of facts does not establish that a complete copy of the application was presented to Mr. Dieffenderfer and Mr. Speier.

It is reasonable to require that the inventor be presented with the application papers before a

petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to a non-signing inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 CFR 1.47 applicant that a non-signing inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

The non-signing inventors must have the complete application in their possession in order to make an informed decision as to whether they join in its filing. When petitioners can show that each non-signing inventor was mailed or received the complete application and that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

With respect to Mr. Dieffenderfer's refusal to cooperate: His refusal is not acceptable without his receipt of the application papers, as discussed above. In addition, he cannot refuse on behalf of Mr. Speier. (Assuming Mr. Dieffender is not Mr. Speier's attorney.)

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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK NC 27709

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of
Dieffenderfer, et al.
Application No.: 11/083,615
Filed: March 18, 2005
Attorney Docket No.: RPS920040158US1(4090)

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.47(a), filed February 24, 2009.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors, Dieffenderfer and Speier, have refused to join in the filing of the above-identified application.

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

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This 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
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

JAMES NORRIS DIEFFENDERFER
4000 INKBERRY CT.
APEX NC 27539

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Dieffenderfer, et al.	:	LETTER
Application No.: 11/083,615	:	
Filed: March 18, 2005	:	
Attorney Docket No.: RPS920040158US1(4090)	:	

Dear Mr. Dieffenderfer:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK NC 27709

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

THOMAS PHILLIP SPEIER
112 ARBOR WYNDS CT.
HOLLY SPRINGS NC 27540

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Dieffenderfer, et al. : LETTER
Application No.: 11/083,615 :
Filed: March 18, 2005 :
Attorney Docket No.: RPS920040158US1(4090) :

Dear Mr. Speier:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD: IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK NC 27709

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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King & Spalding LLP
P.O. Box 889
Belmont, CA 94002-0889

Mail Date: 04/21/2010

Applicant	: Ning Huang	: DECISION ON REQUEST FOR
Patent Number	: 7589252	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,617	: 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.

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

JUL 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

FISH & RICHARDSON, P.C.
225 FRANKLIN STREET
BOSTON, MA 02110-2804

In re Application of
Donald C. Hutchins
Application No. 11/083,635
Filed: March 18, 2005

For: LIGHTING

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as agent of record filed on June 15, 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 listed in the Request 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: DONALD C. HUTCHINS
259 PAGE BOULEVARD
SPRINGFIELD, MA 01104

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
11/083,637	03/17/2005	2822	1000	9898-449	18	8	1

CONFIRMATION NO. 2360

CORRECTED FILING RECEIPT

OC000000016046829

20575
MARGER JOHNSON & MCCOLLOM, P.C.
1030 SW MORRISON STREET
PORTLAND, OR 97205

Date Mailed: 05/18/2005

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

Applicant(s)

Je-Min Park, Kyungki-do, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Samsung Electronics Co., Ltd., Suwon-Si, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number **20575**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/627,895 07/24/2003 PAT 6,897,145

Foreign Applications

REPUBLIC OF KOREA 2002-0047588 08/12/2002

If Required, Foreign Filing License Granted: 04/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/083,637

Projected Publication Date: 08/25/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method for fabricating semiconductor device by forming damascene interconnections

Preliminary Class

438

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

GRANTED

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

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

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

NOT GRANTED

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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KATTEN MUCHIN ROSENMAN LLP / ARBITRON INC.
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON, DC 20007-5118

Mail Date: 04/21/2010

Applicant	: James M. Jensen	: DECISION ON REQUEST FOR
Patent Number	: 7650793	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1065** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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DLA Piper US LLP
2000 University Avenue
E. Palo Alto, CA 94303-2248

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AUG 27 2008

In re Application of	:	
Pete Mihelcic et al.	:	
Application No. 11/083,642	:	ON PETITION
Filed: March 17, 2005	:	
Attorney Docket No. 354591-991101	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 4, 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 9, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is June 10, 2007. A Notice of Abandonment was mailed on October 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 a proper terminal disclaimer, with the required fee of $65, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the terminal disclaimer is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1791 for processing of the terminal disclaimer and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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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
11/083,642	03/17/2005	Pete Mihelcic	354591-991101

CONFIRMATION NO. 2713

POA ACCEPTANCE LETTER

26379
DLA PIPER US LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO, CA 94303-2248

OC000000031666973

Date Mailed: 08/20/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/04/2008.

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

/lwatkins/

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

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United States Patent and Trademark Office
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Loeffler Jonas & Tuggey, LLP
755 East Mulberry Street
Suite 200
San Antonio, TX 78212

COPY MAILED

SEP 02 2008

In re Application of	:	
Richard L. Watson	:	
Application No. 11/083,648	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 80337.00013	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. Accordingly, the date of abandonment of this application is December 29, 2007. A Notice of Abandonment was mailed on April 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a proper terminal disclaimer, with the required fee of $65, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the terminal disclaimer is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

This application is being referred to Technology Center AU 3772 for processing of the terminal disclaimer and any action that is required by the Examiner in the normal course of business.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: William H. Quirk
15715 Horse Creek Street
San Antonio, CA 78232

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAL BOHNER
THELEN REID & PRIEST, LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

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SEP 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Hamming, et al.	:	
Application No. 11/083,651	:	DECISION ON PETITION
Filed: March 17, 2005	:	TO WITHDRAW
Attorney Docket No. 036263-000576	:	FROM RECORD
	:	

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 21, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Thelen Reid & Priest, LLP has been revoked by the assignee of the patent application on September 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mr. Mark Spolyar, Esq.
Spolyar Technology Law Group
2200 Cesar Chavez Street
San Francisco, CA 94124

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/083,651	03/17/2005	John Anthony Hamming	036263-576

CONFIRMATION NO. 2717

OC000000020531078

OC000000020531078

Hal Bohner
Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640

Date Mailed: 09/21/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/07/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
James Daniel Forehand	:	DECISION ON PETITION
Application No. 11/083,661	:	TO WITHDRAW
Filed: March 18, 2005	:	FROM RECORD
Attorney Docket No. 60129.0001USI1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2006.

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

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

This matter is being referred to Technology Center AU 3643 to await applicant's reply to the Office action mailed October 7, 2005.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: WALTER A. RODGERS
6100 LAKE FORREST DRIVE
SUITE 340
ATLANTA, GA 30328

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/083,661	03/18/2005	James Daniel Forehand	60129.0001USI1

CONFIRMATION NO. 2743

OC000000018411045

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

Date Mailed: 03/29/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/03/2006.

- 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).

Wan Laymon

WAN LAYMON
OP (571) 272-3220

FORMER ATTORNEY/AGENT COPY

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 4, 2009

TO SPE OF : ART UNIT 3643 Peter M. Poon

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/083,661 Patent No.: 7134238 B2

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

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

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

Please see COCIN dated July 28, 2009. The applicant is requesting that "Continuation-in-part of" be inserted in front of "10/671,947 filed on September 26, 2003, now Patent 6,886,293"

A certificate of correction has already issued for that correction but WITHOUT "continuation-in-part"

Antonio Johnson
Certificates of Correction Branch
~~703-308-9390 ext~~
703-756-1584

Thank You For Your Assistance SHOULD THIS CHANGE BE MADE?

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: Item [63] on the title page should Read -- Continuation-in-part of application No. 10/671,947, filed on September 26, 2003, now Pat. No. 6,886,293. --

Peter Poon — SPE

3643 — Art Unit

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11083661	3/18/05	FOREHAND, JAMES DANIEL	60129.0001USI1

EXAMINER
Kurt Rowan

ART UNIT	PAPER
3643	20090824

DATE MAILED:

WALTER A. RODGERS
RODGERS & RODGERS
6100 LAKE FORREST DRIVE
SUITE 340
ATLANTA, GA 30328

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

Commissioner for Patents

see enclosed Cert. of Correction.

/Kurt Rowan/
Primary Examiner, Art Unit 3643

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WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

MAILED

OCT 22 2008

Technology Center 2100

In re Application of: Ozzie, et al.
Application No.: 11/083,668
Filed: March 18, 2005
Attorney Docket No.: M1103.70259US01
For: METHOD AND APPARATUS FOR EFFICIENT MANAGEMENT OF XML DOCUMENTS

DECISION ON PETITION *UNDER 37 CFR §1.181* to RESET PERIOD FOR REPLY

This is a decision on the petition filed September 18, 2008 under 37 CFR § 1.181 to reset the Office action response date under MPEP 710.06 for an Office action not received. The delay in responding to the instant petition is regretted.

A review of the file record indicates that a non-final Office action was mailed on April 21, 2008. A Request for Continuing Examination, amendment, remarks, as well as a three-month extension of time were filed in the instant application on October 21, 2008. The above-identified papers are entered into the file and have been processed. The response filed October 21, 2008, along with the three-month extension of time, are considered to have been timely filed, thus rendering the request to reset the period for reply of the April 21, 2008 (final) Office action moot.

Accordingly, in view of the above stated reason, the instant petition, filed on September 18, 2008 to reset the period for reply to the April 21, 2008 action, is rendered moot.

Accordingly, the petition is **DISMISSED as MOOT**.

It is noted that the instant application appears to have been improperly charged a petition's fee (in the amount of $400.00) on September 18, 2008. No fee is required for this type of petition. Applicant is reminded, in accordance with 37 CFR § 1.26, any request for refund must be filed within two years from the date the fee was paid.

The instant application is being forwarded to the Examiner for appropriate action on the merits. Telephone inquiries should be directed to the undersigned at 571-272-3595.

Brian L. Johnson
Workgroup Quality Assurance Specialist
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.
11/083,668	03/18/2005	Raymond E. Ozzie	M1103.70259US01	3593

45840 7590 10/23/2008
WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

EXAMINER
NGUYEN, MAIKHANH

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
10/23/2008	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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HICKMAN PALERMO TRUONG & BECKER LLP/Apple Inc.
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Alexander B. Beaman	: DECISION ON REQUEST FOR
Patent Number	: 7620753	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,671	: 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 **1060** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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RONALD CRAIG FISH
RONALD CRAIG FISH, A LAW CORPORATION
POST OFFICE BOX 820
LOS GATOS CA 95031

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JUL 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Madhukar B. Vora	:	DECISION ON PETITION
Application No. 11/083,683	:	
Filed: 17 March, 2005	:	
Atty Docket No. V&F-001.1P	:	

Receipt is acknowledged of the petition filed on 20 June, 2005, concerning the U.S. Patent and Trademark Office's handling of an application assigned application Serial No. 11/038,683.

The petition is dismissed.

The application was filed on 17 March, 2005. However, on 18 April, 2005, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers stating that the application had been accorded a filing date of 17 March, 2005, and advising applicant that Figures 44 and 45 described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioners explain that Figures 44 and 45 were not missing on 17 March, 2005. Instead, Figures 44 and 45 described in the specification were inadvertently mislabeled as Figures 43D and 43E.

It is obvious from the petition that no drawing was actually missing on 17 March, 2005. Rather, Figures 44 and 45 were mislabeled as a result of applicant's filing error. However, the "Notice" mailed on 18 April, 2005, was correct in stating that Figures 44 and 45 described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The present petition was not necessitated by any error on the part of the Office and the $400.00 petition was required upon filing of the petition. Thus, the $400.00 petition fee will not be refunded.

Petitioner should submit a preliminary amendment to correct the references to the drawings Figures.

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 1.121(d) is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 17 March, 2005, using the application papers present on filing.

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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2801 CENTERVILLE ROAD
WILMINGTON DE 19808

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JUL 25 2007

OFFICE OF PETITIONS

In re Application of
ALLGEIER, et al.
Application No. 11/083,715
Filed: March 18, 2005
Attorney Docket No. **PI 1775 US NA**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 26, 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 May 13, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 14, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a supplemental Application Data Sheet and additional claim fee of $200; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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SEP 21 2007

OFFICE OF PETITIONS

In re Application of :
Allgeier, et al. :
Application No. 11/083,715 :
Deposit date: March 18, 2005 :
Attorney Docket No. PI1775 US NA :
For: METHOD FOR MAKING CAPROLACTAM FROM IMPURE 6-AMINOCAPRONITRILE

ON PETITION

This is a decision on the petition, filed August 14, 2007, to accord a filing date to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

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

The application was deposited on March 18, 2005. On May 13, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, which set an extendable two (2) month period to submit an oath/declaration and additional claim fees. It is noted that a filing date was assigned to the application filed on March 18, 2005. Applicants did not respond to the May 13, 2005 Notice in a timely manner. The application became abandoned on July 14, 2005 and a petition to revive under 37 CFR 1.137(b), filed October 26, 2006, was granted on July 25, 207.

On July 31, 2007, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on March 18, 2005 references drawing figures, but no drawing figures were filed on March 18, 2005.

Petitioners request a February 10, 2006 filing date for the application because that is the date that drawings were transmitted via facsimile to the Office. Petitioners are informed that it is not possible to file drawings via facsimile transmission for the purpose of obtaining a filing date. 37 CFR 1.8(a)(2)(i)(A). Furthermore, even if the drawings had been properly filed, petitioners have not filed a newly executed declaration covering the later filed drawings.

However, petitioners will be granted relief based on the presence of method claims in the application as filed. As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process, method, or composition 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 drawings 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 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, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice" mailed July 31, 2007 was mailed in error and is hereby withdrawn. The application is entitled to a filing date of March 18, 2005. The petition under 37 CFR 1.53(e) is **granted**.

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.

The $400.00 petition fee filed with the instant petition will be credited to deposit account no. 50-3223.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **March 18, 2005** and for indication in PTO records that "0" sheets of drawings were present on filing.

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

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Ferenc Pazmandi, Agent for Applicant
SIDLEY AUSTIN BROWN & WOOD LLP
555 California Street, Suite 2000
San Francisco CA 94104-1715

In re Application of
April A. LYTLE
Application No. 11/083,716
Filed: March 18, 2005
Attorney Docket No. 30749/81001

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2006.

The request is **APPROVED**.

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

The request was signed by Ferenc Pazmandi on behalf of all attorneys of record.

All attorneys/agents associated have been withdrawn.

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

All future correspondence will be directed to the sole named inventor April Ache Lytle 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: April Ache Lytle
NOW WHAT, Co.
4227 Knoll Avenue
Oakland, CA 94619

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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
11/083,716	03/18/2005	April Ache Lytle	30749/81001

CONFIRMATION NO. 2356

OC000000019999409

Ferenc Pazmandi
Agent for Applicant
SIDLEY AUSTIN BROWN & WOOD LLP
555 California Street, Suite 2000
San Francisco, CA 94104-1715

Date Mailed: 08/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Sengupta, et al.	:	
Application No. 11/083,728	:	DECISION GRANTING PETITION
Filed: March 18, 2005	:	
Attorney Docket No. PI 1795 US NA	:	

This is a decision on the "PETITION PURSUANT TO 37 CFR 1.181(f) AND 1.53(e)", filed May 4, 2005, to accord the above-identified application a filing date of March 18, 2005.

The application was deposited on March 18, 2005. However, on April 20, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", stating that the application had not been accorded a filing date because the application was deposited without drawings.

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 <u>not</u> 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 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 instant application contains process claims.

Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

In view of the above, the petition is **GRANTED**.

The "Notice of Incomplete Nonprovisional Application", mailed April 20, 2005, was mailed in error and is hereby **VACATED**.

The above-identified application is accorded a filing date of March 18, 2005, as requested in the petition.

Given the basis for granting this petition, the petition fee has been refunded to Deposit Account No. 03-2775.

Receipt of the substitute specification and the Application Data Sheet, filed with the instant petition, is acknowledged.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 18, 2005, using the application papers received in the Office on that date and for indication in Office records to show that "0" sheets of drawings were present on filing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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220 FIFTH AVENUE
16TH FLOOR
NEW YORK NY 10001-7708

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APR 13 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Masafumi Kodera et al	:	
Application No. 11/083,734	:	
Filed: March 18, 2005	:	
Attorney Docket No. 05184/LH	:	

This is a decision on the petition, filed April 12, 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 March 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2833 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

MAILED

JUN 07 2010

OFFICE OF PETITIONS

In re Application of	:	
William MARKLAND, et *al.*	:	
Application No. 11/083,742	:	DECISION GRANTING PETITION
Filed: March 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **D2033-706220**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 4, 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 April 15, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1652 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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

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

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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Marian Trinkel	: DECISION ON REQUEST FOR
Patent Number	: 7627472	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,744	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1069** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Stephanie Bell	: DECISION ON REQUEST FOR
Patent Number	: 7581268	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,749	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 06/25/2010

Applicant	: Vincent J. Sullivan	: DECISION ON REQUEST FOR
Patent Number	: 7644562	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/083,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1246** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Ezra Sutton, Esq.
Plaza 9
900 Route 9
Woodbridge NJ 07095

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MAR 1 6 2009

OFFICE OF PETITIONS

In re Application of :
James Burnell :
Application No. 11/083,752 : DECISION ON PETITION
Filed: March 18, 2005 :
For. Hand Held Communications Computer :
and Keyboard

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed December 19, 2008, to revive the above-identified application.

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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 reply to the non-final Office Action of May 30, 2008. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 31, 2008.

A review of the petition shows that it has not been properly signed. Attorney Sutton and inventor Burrell have executed the showing of unavoidable delay. However, page 2 of the petition has not been signed, thus the petition has not been executed. A decision on the merits has **not** been made.

On renewed petition, a properly signed petition is required.

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

By Mail: Mail Stop PETITION
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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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Ezra Sutton
Plaza 9
900 Route 9, Suite 201
Woodbridge, NJ 07095

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Ezra Sutton, Esq.
Plaza 9
900 Route 9
Woodbridge NJ 07095

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of
James Burnell
Application No. 11/083,752
Filed: March 18, 2005
For. Hand Held Communications Computer and Keyboard

DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed March 19, 2009, to revive the above-identified application.

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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 reply to the non-final Office Action of May 30, 2008. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 31, 2008.

Petitioner contends that the Office action of May 30, 2008 was never received.

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).

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "avoidable." See, 37 CFR 1.137(a)(3).

Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

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

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

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

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

Petitioner has failed to meet any of the above requirements.

Although petitioner states that the Office action was not received, a statement that attest a search of the file jacket and docket records was made has not been provided.

It should also be noted that the address provided on the petition is not exactly as the correspondence address of record. The address provided includes reference to suite 201.

However, at no point has the Office been directed to include the suite number to the correspondence address of record. Petitioner must establish that the difference in the address did not contribute to the failure to receive the Office action.

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

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Ezra Sutton
Plaza 9
900 Route 9, Suite 201
Woodbridge, NJ 07095

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Ezra Sutton, Esq.
Plaza 9
900 Route 9
Woodbridge NJ 07095

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AUG 14 2009

OFFICE OF PETITIONS

In re Application of
James Burnell
Application No. 11/083,752
Filed: March 18, 2005
For. Hand Held Communications Computer and Keyboard

DECISION ON PETITION

This is a decision on the renewed petition under the unavoidable provisions of 37 CFR 1.137(a), filed July 22, 2009, to revive the above-identified application.

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

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 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 reply to the non-final Office Action of May 30, 2008. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 31, 2008.

Petitioner contends that the Office action of May 30, 2008 was never received. On renewed petition, petitioner also states that he never received the petition decision mailed on March 30, 2009.

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).

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "avoidable." See, 37 CFR 1.137(a)(3).

Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

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

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

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

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

Petitioner has failed to meets (1) and (2) of the above requirements.

As to item (1), petitioner has failed to provide a statement, which describes the system used to record Office communications and establish that the docketing system was sufficiently reliable.

As to item (3), on renewed petition, petitioner has provided a copy of the file for the application in question. Petitioner has failed to provide a copy of the firm master docket record where the nonreceived Office communications would have been entered had it been received. Nor has petitioner provided a statement that a master docket does not exist. The Office requires a copy of the master docket for the **firm** not just for this specific application. Pursuant to MPEP 711.03 (c) a copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question. In this instance, petitioner must provide evidence for non-receipt of both the May 30, 2008 Office action and the March 30, 2009 petition decision.

It should also be noted that the address provided on the petition is not exactly as the correspondence address of record. The address provided includes reference to suite 201. Petitioner argues that he has received mail at the correspondence address for the pass 20 years with no problems. However, the first full paragraph on page 3 of the petition states " The two USPTO correspondences may have not been received at my office because my mailing address does not include suite 201". If the last statement is correct then the failure to receive the Office communication was based on the failure of petitioner to supply a complete address. Any renewed petition must establish that the difference in the address did not contribute to the failure to receive the Office action.

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

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Ezra Sutton
Plaza 9
900 Route 9, Suite 201
Woodbridge, NJ 07095

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OCT 0 8 2009

OFFICE OF PETITIONS

Ezra Sutton, Esq.
Plaza 9
900 Route 9
Woodbridge NJ 07095

In re Application of
James Burrell
Application No. 11/083,752
Filed: March 18, 2005
For: Hand Held Communications Computer and Keyboard

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to the non-final Office Action of May 30, 2008. The non-final Office Action set a three (3) month shortened statutory period for reply. No extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 31, 2008. Petitions filed under 37 CFR 1.137 (a) were dismissed on March 16, 2009, March 30, 2009 and August 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, specification, and drawings (2) the petition fee of $810.00, and (3) a statement of unintentional delay.

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

This application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SAN FRANCISCO CA 94111-4067

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FEB 19 2009

OFFICE OF PETITIONS

In re Application of	:	
McCormack et al.	:	
Application No. 11/083,760	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. 7045072001 (MUZ-001)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 8, 2009, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed June 17, 2007, which set a shortened statutory period for reply of three (3) months. A three-month extension of time and reply under the provisions of 37 CFR 1.136(a) was timely obtained on December 17, 2008. A Notice of Abandonment was mailed on December 23, 2008.

Petitioner contends that a response in the form of an Amendment was timely filed on December 17, 2008, but listed an incorrect application serial number. A review of application number 10/083,760 shows that an Amendment, along with a three-month extension of time was filed. The amendment and extension of time have now been properly matched with the instant application.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The petition to revive under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT.**

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the small entity $810.00 petition fee submitted with the 1.137(b) will be credited to petitioner's Deposit Account as previously authorized.

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.

This matter is being referred to Technology Center AU 2166 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: William N. Hughet
2020 K Street, NW
Washington DC 20006

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	: Hung-Ming Chien	: DECISION ON REQUEST FOR
Patent Number	: 7590387	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,781	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AUG 5 2005

KALOW & SPRINGUT LLP
488 MADISON AVENUE
19TH FLOOR
NEW YORK NY 10022

In re Application of Anastasia Khvorova et al Serial No.: 11/083,784 Filed: March 18, 2005 Attorney Docket No.: 13499US4	: PETITION TO MAKE SPECIAL

This is in response to the petition filed April 25, 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, X. Therefor the petition is **GRANTED**.

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

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

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

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Commissioner for Patents
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JUL 21 2005

Director's Office
Group 3700

Robert L. Giuliani
1456 Thurston Ave. A-1204
Honolulu, HI 96822

In re application of Robert L. Giuliani	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 11/083789 Filed: March 18, 2005	:	

For: **INTERCHANGEABLE 2-STROKE OR 4-STROKE HIGH TORQUE POWER ENGINE**

This is a decision on the petition filed on March 18, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

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

rt: 7/20/05

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WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Patent No. 7,111,664	:	
Issue Date: September 26, 2006	:	
Application No. 11/083,791	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 16169.2	:	

This is a decision on the petition under 37 CFR 1.182, filed June 7, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

Since the statement of lost patent grant was signed by an authorized officer of the assignee and complied with the requirements of 37 CFR 3.73(b), the petition is **granted**.

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

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent. The patent file is being forwarded to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of the duplicate Letters Patent should be directed to Krystal Paige at (703) 308-9250 ext 139.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Krystal Paige, P/OPPD, South Tower 8th Floor, Room C32
FAX No. (571) 270-9937

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OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

In re Application of	:
Sandstedt, et al.	: DECISION ON APPLICATION
Application No. 11/083,794	: FOR PATENT TERM ADJUSTMENT
Filed: March 18, 2005	:
Atty. Dkt. No: DO-	:
060724/P008CP1CP1/1050	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed July 27, 2007.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **DISMISSED**.

Applicants request that the Determination of Patent Term Adjustment be corrected from 236 days, as indicated on the Determination of Patent Term Adjustment mailed June 25, 2007, to an adjustment of 236 days.

As uncontested by applicants, an adjustment of 243 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1).

The adjustment of 243 days is properly reduced seven days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental paper, an Information Disclosure Statement (IDS), filed April 16, 2007. The reduction began April 10, 2007, the day after the date that a response to the non-final Office action was filed, and ended April 16, 2007, the date the IDS was filed.

Applicants argue that the reduction of seven days is in error because the IDS filed April 16, 2007 was filed within three months of receiving a foreign search report and in accordance with 37 CFR 1.704(d). Applicants argue that the IDS was not a supplemental reply within the meaning of 37 CFR 1.704(c)(8) because it "was not received by an individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of this statement."

Applicants' arguments have been carefully considered, but are not found convincing. In accordance with 37 CFR 1.704(c)(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 constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application.

Applicants do not contend that the IDS was expressly requested by the examiner of record.

Moreover, in accordance with 37 CFR 1.704(d), "[a] paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section *if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.* This thirty-day period is not extendable." (Emphasis added.)

The IDS filed April 16, 2007 has been reviewed and does not appear to contain the statement required per 37 CFR 1.704(d). Accordingly, the IDS submitted April 16, 2007 is deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(8).

Accordingly, at the time of allowance, the application is entitled to an adjustment of 236 days, as indicated in the Determination of Patent Term Adjustment mailed June 25, 2007.

As authorized, the required PTA application fee of $200.00 has been charged to applicants' deposit account.

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of :
Aurelio Valencia et al. :
Application No. 11/083,802 : DECISION REFUSING STATUS
Filed: March 18, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 022352-001210US :

This is in response to the petition under 37 CFR 1.47(a), filed October 24, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on March 18, 2005, but without a signed declaration.

Accordingly, on April 20, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition was filed with a four month extension of time. Petitioners seek status under 37 CFR 1.47(a) because four of the twelve joint inventors, Kramer, Aboytes, Greenan and Payne refuse to cooperate with the filing of the 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 present petition lacks items (1) and (4) above.

Petitioners have indicated that the application papers were mailed to non-signing inventors Kramer, Aboytes, Greenan and Payne, that joint inventors Aboytes, Greenan and Payne have actually received the packages but thus have not returned executed copies of the oath or declaration or assignment, as requested. However, petitioners have indicated that the application papers mailed to joint inventor Kramer have been returned undeliverable but, petitioners have not shown that diligent efforts have been made to locate the non-signing inventor.[1]

Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Kramer, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact Mr. Kramer by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that Mr. Kramer cannot be found despite diligent efforts.

If Mr. Kramer refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

In regards to item (4), the last known addresses of all non-signing joint inventors, including Mr. Kramer have not been provided as required by 37 CFR 1.47. Petitioners must provide a statement of the last known address of the nonsigning inventors. That address should be the last known address at which the inventors customarily receive mail. Ordinarily, the last known address will be the last known residence of the nonsigning inventors. While Internet searches and directory assistance inquiries show diligent efforts, diligent efforts to locate a non-signing inventor should at least start with the last known address of the non signing inventor.

Status under 37 CFR 1.47(a) cannot be accorded this application until such time as efforts to reach Mr. Kramer have been attempted at the last known address and the last known address has been provided with a request for reconsideration.

With respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased from $130.00 to $200.00. Therein, deposit account no. 20-1430 has been charged in the amount of $200.00. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

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

By mail: Mail Stop Petitions
Commissioner for Patents

---

[1] MPEP 409.03(d).

P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
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

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of
Aurelio Valencia et al.
Application No. 11/083,802
Filed: March 18, 2005
Attorney Docket No. 022352-001210US

: DECISION NOTING JOINDER OF
: INVENTOR AND PETITION UNDER
: 37 CFR 1.47(a) DISMISSED AS
: INVOLVING MOOT ISSUES

A petition under 37 CFR 1.47(a), filed October 19, 2005, was dismissed in a decision mailed November 8, 2005.

Papers filed April 27, 2006, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed November 8, 2005, included a declaration signed by previously non-signing inventors Kramer, Aboytes, Greenan and Payne, in compliance with 37 CFR 1.63 and a four month extension of time request.

In view of the joinder of the non-signing inventors, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed April 27, 2006 is **DISMISSED** as involving moot issues.

This application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter will be referred to Technology Center 3672 and examination of the application will occur in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Church Street Station
New York NY 10008-0770

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OFFICE OF PETITIONS

In re Application of
Hickman et al.
Application No. 11/083,814
Filed: March 16, 2005
Attorney Docket No. 21207/1208056-US2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 15, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

This above-identified application was held abandoned for failure to timely file a compliant appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on September 14, 2007 providing applicant with an extendable one month period for reply. The application was held abandoned on October 15, 2007. A Notice of Abandonment was mailed on December 18, 2008.

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

As to item (1), the examiner has reviewed the response to the Notification of Non-Compliant Appeal Brief Under 37 CFR 41.37. The Examiner has not been convinced by the arguments presented with the petition. A new Notice of Non-Compliant Brief has been included.

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

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

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

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

enclosure

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 11/083,814	Applicant(s) HICKMAN ET AL.	
	Examiner Pierre E. Elisca	Art Unit 3621	

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

The Appeal Brief filed on *15 January 2009* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

(4) The summary of claimed subject matter section does not map the independent claims on appeal, to the specification by page and line number and to the drawings, if any (claims 1, 25 and 30). Applicant should identify each independent claims separately .

/ Pierre E. Elisca/
Primary Examiner, Art Unit 3621

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120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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JUN 12 2009

OFFICE OF PETITIONS

In re Application of
Hickman et al.
Application No. 11/083,814
Filed: March 16, 2005
Attorney Docket No. 21207/1208056-US2

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

This above-identified application was held abandoned for failure to timely file a compliant appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on September 14, 2007 providing applicant with an extendable one month period for reply. The application was held abandoned on October 15, 2007. A Notice of Abandonment was mailed on December 18, 2008. A petition filed under 37 CFR 1.137(b) was dismissed on March 16, 2009.

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

As to item (1), on renewed petition an amended appeal brief has been submitted. However, the examiner has reviewed the appeal brief submitted on May 15, 2009 and determined that the appeal brief is not compliant. A new Notice of Non-Compliant Brief (37 CFR 41.37) has been included with the petition decision.

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

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

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

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

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

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

Enclosure

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 11/083,814	Applicant(s) HICKMAN ET AL.	
	Examiner Pierre E. Elisca	Art Unit 3621	

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

The Appeal Brief filed on *15 May 2009* is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file anamended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

Applicant is required to summarize each independent claims separately and must contain concise explanation of the subject matter.
Applicant submission is in noncompliance. IDS filed on 05/15/2009 is considered..

/ Pierre E. Elisca/
Primary Examiner, Art Unit 3621

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

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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SEP 08 2009

OFFICE OF PETITIONS

In re Application of
Hickman et al.
Application No. 11/083,814
Filed: March 16, 2005
Attorney Docket No. 21207/1208056-US2

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application was held abandoned for failure to timely file a compliant appeal brief. A Notice of Non-Compliant Appeal Brief pursuant to 37 CFR 41.37 was mailed on September 14, 2007 providing applicant with an extendable one month period for reply. The application was held abandoned on October 15, 2007. A Notice of Abandonment was mailed on December 18, 2008. Petitions filed under 37 CFR 1.137(b) were dismissed on March 16, 2009 and June 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amended appeal brief, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 3621 for appropriate action by the Examiner in the normal course of business on the reply received

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEAGATE TECHNOLOGY C/O MPFP SF
425 MARKET STREET
SAN FRANCISCO, CA 94105

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:	
Jeffry A. LeBlanc, et al.	:	
Application No. 11/083,820	:	DECISION ON PETITION
Filed: November 17, 2006	:	TO WITHDRAW
Attorney Docket No. 146712011600	:	FROM RECORD
	:	

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 8, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Seagate Technology has been revoked by the assignee of the patent application on August 13, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: STEPHEN C. DURANT
NOVAK, DRUCE & QUIGG, LLP
SPEAR STREET TOWER – 35TH FLOOR
ONE MARKET PLAZA
SAN FRANCISCO, CA 94105

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

SEP 2 2005

ALAN J. HOWARTH
P.O. BOX 1909
SANDY UT 84091-1909

In re Application of	:
Thomas E. Mower	: PETITION TO MAKE SPECIAL
Serial No.: 11/083,826	:
Filed: March 18, 2005	:
Attorney Docket No.: T10655	

This is in response to applicant's petition filed August 22, 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. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was charged to applicant's Deposit Account No. 16-1445, as authorized. Therefore, the petition is **GRANTED**.

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

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

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

F. Chau & Associates, LLC
130 Woodbury Road
Woodbury, NY 11797

COPY MAILED

MAR 2 0 2009

OFFICE OF PETITIONS

In re Application of	:	
Louis G. Cornacchia III	:	
Application No. 11/083,865	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. 8123-1	:	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 December 11, 2008.

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

A review of the file record indicates that the power of attorney to F. Chau & Associates, LLC has been revoked by the applicant of the patent application on February 27, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Hayes Soloway P.C.**
3450 E. Sunrise Drive, Suite 140
Tucson, AZ 85718

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FEB 16 2007

OFFICE OF PETITIONS

**ROTHWELL, FIGG, ERNST &
MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005**

In re Application of	:	
Richard J. Helferich	:	
Application No. 11/083,897	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 0101-156	:	

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on 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]

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

The examiner of Technology Center AU 2618 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JON E. KAPPES
LAW OFFICES OF STEVEN G. LISA, LTD.
C/O INTELLEVATE, LLC.
P.O. BOX 52050
MINNEAPOLIS MN 55402

COPY MAILED

JAN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Helferich	:	
Application No. 11/083,897	:	DECISION GRANTING PETITION
Filed: March 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. I-W2W-11083897	:	

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
Office of Petitions

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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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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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FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Richard J. Helferich	:	
Application No. 11/083897	:	
Filing or 371(c) Date: 03/21/2005	:	ON PETITION
Attorney Docket Number:	:	
-W2W-11083897	:	

This is a decision on the "Petition to Expunge/Close Inadvertent E-Filed Document," filed July 9, 2007. The petition to expunge is properly treated under 37 C.F.R. § 1.59. The delay in treating this petition is regretted..

The Petition under 37 C.F.R. § 1.59 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.

Petitioner files the present petition to close (expunge) inadvertently submitted information and in support of the petition states that the information (Amendment) was intended to be filed in another application.

The MPEP 724.05(II), Information Unintentionally Submitted in Application, provides

> A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:
> (A) the Office can effect such return prior to the issuance of any patent on the application in issue[1];

[1] The Office will not return the documents from the physical file because it is the Office's policy not to remove papers from files that have been scanned. The Office will, however, "close" the images in the application or patent that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or patent number in the electronic file.

(B) it is stated 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;
(C) the information has not otherwise been made public;
(D) there is 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;
(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The present petition lacks items (B), (C), and (D). Petitioner has failed to state that 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; Petitioner has failed to state that the information has not otherwise been made public, and Petitioner has failed to commit to retain such information for the period of any patent with regard to which the information was submitted.

The petition is dismissed without prejudice. Petitioner should file a request for reconsideration of the petition and include the necessary statements.

The application file is being referred to Technology Center Art Unit 2618 for continued examination in due course.

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

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

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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ALEX CHARTOVE
MORRISON & FOERSTER, LLP
1650 TYSONS BLVD
SUITE 400
MCLEAN, VA 22102

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APR 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Boris A. Maslov, et al.	:	
Application No. 11/083,901	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 544092000101	:	FROM RECORD
	:	

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 **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 November 3, 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 undersigned at 571-272-1642.

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

cc: HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/083,903	03/18/2005	Matthew P. Potts	200408123-1	1936

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
CHOW, CHIH CHING

ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	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.

Nicole Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
03/22/2005 FFANAEIA 00000080 082025   11083903
02 FC:1111        500.00 CR
04 FC:1201        200.00 CR
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 18 2006
OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE/PML
INDIANAPOLIS OFFICE
1 INDIANA SQ
SUITE 1600
INDIANAPOLIS, IN 46204-2033

In re Application of	:	
Wynans, et al.	:	
Application No. 11/083,909	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 6270/164 (30017	:	

This is a decision on the petition under 37 CFR 1.182 filed March 22, 2005 to change the order of inventors.

The petition is **GRANTED.**

The joint inventors will be listed on the application as follows:

Arthur B. Wynans
Daniel Alan Cumming
Michael E. Teachman
Eric K. Knight
Daniel N. Loewen
Martin A. Hancock
Colin N. Gunn

A corrected filing receipt is enclosed.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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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
11/083,909	03/18/2005	2838	2730	6270/164 (300179)	17	32	3

CONFIRMATION NO. 2299

CORRECTED FILING RECEIPT

OC000000018803704

46261
BRINKS HOFER GILSON & LIONE/PML
INDIANAPOLIS OFFICE
1 INDIANA SQ
SUITE 1600
INDIANAPOLIS, IN 46204-2033

Date Mailed: 05/15/2006

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

Applicant(s)

Arthur B. Wynans, Victoria, CANADA;
Daniel Alan Cumming, Sidney, CANADA;
Michael E. Teachman, Victoria, CANADA;
Eric K. Haight, Victoria, CANADA;
Daniel N. Loewen, Sidney, CANADA;
Martin A. Hancock, Victoria, CANADA;
Colin N. Gunn, Victoria, CANADA;

Power of Attorney:

David Badger--22597
Andrew Richardson--26983
Gustavo Siller Jr--32305
Lawrence Steward--32309
James Katz--42711
Michael Wever--43984
Vincent Gnoffo--44714
Sanders Hillis--45712
Theresa Koster--56028

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/554,188 03/18/2004

Foreign Applications

Acceptable Request to Retrieve Priority Application Received?

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/083,909

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Solar powered radio frequency device within an energy sensor system

Preliminary Class

363

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

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MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:
Eiji Kamiya	:
Application No. 11/083,930	: DECISION GRANTING PETITION
Filed: March 21, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 267980US2S DIV	:

This is a decision on the petition, filed May 21, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/083,961	03/21/2005	William A. Kinney	036870-5067-06	9866

9629 7590 12/18/2009
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER
BADIO, BARBARA P

ART UNIT	PAPER NUMBER
1628	

MAIL DATE	DELIVERY MODE
12/18/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC 1 8 2009

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of:
Kinney et al.
Serial No.: 11/083,961
Filed: March 21, 2005
Attorney Docket No.: **036870-5067-06**

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.181, filed November 30, 2009, requesting the decision in the Advisory Action dated August 12, 2009 to reject claim 10 based on Applicants' alleged improper incorporation by reference of a U.S. patent in order to amend claim 10 to recite "a pharmaceutically acceptable salt" be held improper.

BACKGROUND

Applicants submitted an amendment on November 19, 2008, wherein claim 10 was amended to recite "a pharmaceutically acceptable salt".

On January 29, 2009, a final Office action was issued by the examiner wherein claim 10 was rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement.

In response thereto, applicants submitted an after final amendment of July 29, 2009, wherein "Applicants submitted that under 37 C.F.R. 1.57(c)(1), the phrase "apharmaceutically acceptable salt" was properly supported through incorporation by reference of U.S. Patents 5,192,756 and 5,733,899, which were cited in Applicants' specification and described as being "incorporated by reference in their entirety" in paragraph [0078] of the published application. Applicants then pointed out the following passage in U.S. Patent No. 5,192,756 that explicitly disclosed pharmaceutically acceptable salts of squalamine:

> [p]harmaceutically acceptable salts of squalamine may be prepared by methods well known in the art. Such salts include, but are not limited to, sodium, potassium, ammonium and chloride salts. (lines 36-39 in column 3 of U.S. Patent No. 5,192,756).

Applicants also pointed out the following passage in U.S. Patent No. 5,733,899 that explicitly disclosed pharmaceutically acceptable salts of aminosterols:

> [i]n general, the compounds of the invention may be prepared in neutral or salt form. Pharmaceutically acceptable salts include those formed with free amino groups such as those derived from hydrochloric, phosphoric, sulfuric, acetic, trifluoroacetic, oxalic, tartaric acids, etc., and those formed with free carboxyl groups such as those derived from sodium, potassium, ammonium, calcium, ferric hydroxides, isopropylamine, triethylamine, 2-ethylamino, ethanol, histidine, procaine, etc. (lines 60-65 at column 123 of U.S. Patent No. 5,733,899)."

The examiner mailed an Advisory Action on August 12, 2009 and indicated the request for reconsideration was considered, but did not place the application in condition for allowance because "The incorporation by reference referred to by applicant is improper. Applicant's attention is directed to MPEP sec 608.01(p), especially section IA."

In response thereto, applicants filed a petition under 37 CFR § 1.181 on November 30, 2009, requesting that "Applicants' alleged improper incorporation by reference of a U.S. patent in order to amend claim 10 to recite "a pharmaceutically acceptable salt" be held improper."

DISCUSSION

The petition and the file history have been carefully considered again.

In the instant petition on page 3, applicants "submit that they have satisfied both of the requirements of 37 C.F.R. 1.57(b). Requirement (1) has been satisfied by Applicants' explicit statement in the specification that "[a]ll the patents, journal articles and other documents discussed or cited above are herein incorporated by reference in their entirety" (paragraph [0078] of the published application, emphasis added). Requirement (2) has been satisfied by the explicit reference in the specification to U.S. Patent 5,192,756 (see paragraph [0005] of the published application) and U.S. Patent 5,733,899 (see paragraph [0006] of the published application). Applicants further "submit that they have properly adhered to current U.S. rules in their amendment of claim 10 to add "a pharmaceutically acceptable salt". Finally, applicants "submit that incorporation into claim 10 of the essential matter "a pharmaceutically acceptable salt" from U.S. Patents 5,192,756 and 5,733,899, which are specifically cited in Applicants' specification, based on the words "'incorporated by reference in their entirety" is sufficient and proper without more."

Accordingly, upon careful consideration of applicants' arguments set forth in the petition of November 30, 2009, it is decided that the improper incorporation by reference set forth by the examiner was not proper. Thus, applicants' request to have considered the proposed claim 10 amendment which recites "a pharmaceutically acceptable salt" is granted.

DECISION

The petition is **GRANTED.**

The final Office action of January 29, 2009 rejecting claim 10 under 35 USC 112, first paragraph, as failing to comply with the written description requirement is **VACATED.** The advisory action mailed August 12, 2009, indicating that the incorporation by reference was not proper is also hereby **VACATED**.

This application will be forwarded to the examiner for an action not inconsistent with this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Tomoyuki Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7570776	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/083,990	: OF WYETH
Filed	: 03/21/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Shuuji Yano	: DECISION ON REQUEST FOR
Patent Number	: 7586569	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **960** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Kitani.	:	
Application No. 11/084,042	:	DECISION
Filed: 21 March, 2005	:	
Attorney Docket No. 03500.110426	:	

This is a decision on the petition, filed on 12 August, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." (If Petitioner cannot satisfy the evidentiary requirements necessary for a petition to withdraw the holding of abandonment to be granted, Petitioner may alternatively file a petition under 37 C.F.R. §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 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A proper showing requires at the very minimum:

- A statement from practitioner stating that the Office action was not received by the practitioner;

- A statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received ***with a copy of those docket records***; and

- A **brief** statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively:

- A statement from practitioner stating that the reply was timely submitted by the practitioner;

- Copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to the Notice of Allowance and Allowability and Fees Due mailed on 29 February, 2008. with reply due under a non-extendable deadline on or before 29 May, 2008.

The application went abandoned by operation of law after midnight 29 May, 2008.

The Office mailed the Notice of Abandonment on 25 June, 2008.

On 12 August, 2008, Petitioner filed the instant petition, with, *inter alia*, an averment that the 29 February, 2008, Notice was not received, and Petitioner made a statement of search and non-discovery, but did not provide a copy of the docket record for the instant application, and did provide a copy of the due date calendar/docket for on and about 29 May, 2008, with a discussion of the docketing process.

Thus, Petitioner lacks herein: A copy of the docket record for the instant application in support of the statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with ("A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.")

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 2'shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

The petition fails to satisfy all of the above-stated requirements in that Petitioner failed make the showing required.

---

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Accordingly, the petition is **dismissed**.

ALTERNATIVE VENUE

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 C.F.R. §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 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

The filing of a petition under 37 C.F.R. §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 C.F.R. §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 C.F.R. §1.137(b).

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FEB 27 2009
OFFICE OF PETITIONS

In re Application of	:	
Kitani.	:	
Application No. 11/084,042	:	DECISION
Filed: 21 March, 2005	:	
Attorney Docket No. 03500.110426	:	

This is a decision on the petition, filed on 5 November, 2008, and supplemented on 23 February, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I).

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to the Notice of Allowance and Allowability and Fees Due mailed on 29 February, 2008. with reply due under a non-extendable deadline on or before 29 May, 2008.

The application went abandoned by operation of law after midnight 29 May, 2008.

The Office mailed the Notice of Abandonment on 25 June, 2008.

On 12 August, 2008, Petitioner filed a petition, with, *inter alia*, an averment that the 29 February, 2008, Notice was not received, and Petitioner made a statement of search and non-discovery, but did not provide a copy of the docket record for the instant application, and did provide a copy of the due date calendar/docket for on and about 29 May, 2008, with a discussion of the docketing process. Thus, Petitioner lacked, *inter alia*, a copy of the docket record for the instant application in support of the statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received, a copy of the due date calendar where the non-received Office action would have appeared for the date due, as well as the statements of the docketing system nature, its reliability and non-receipt at the address of record. The petition was dismissed on 29 September, 2008.

On 5 November, 2008, Petitioner filed, *inter alia*, a petition averring non-receipt, search and non-discovery, and submitted the documents described above with a description of the docketing system, and this was supplemented on 23 February, 2009, with statements of the docketing system nature, its reliability and non-receipt at the address of record.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[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.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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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).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 25 June, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2812 for further processing as necessary in due course—to include the re-mailing of the 29 February, 2008, Notice of Allowance/Allowability and Fees Due and resetting of the reply period.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

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[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

5514 7590 02/29/2008

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

EXAMINER	
FORD, KENISHA V	
ART UNIT	PAPER NUMBER
2812	

DATE MAILED: 02/29/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/084,042	03/21/2005	Koji Kitani	03500.110426.	8051

TITLE OF INVENTION: FILM FORMATION METHOD, SUBSTRATE, AND LIQUID DISCHARGE HEAD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	05/29/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

5514 7590 02/29/2008

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

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/084,042	03/21/2005	Koji Kitani	03500.110426.	8051

TITLE OF INVENTION: FILM FORMATION METHOD, SUBSTRATE, AND LIQUID DISCHARGE HEAD

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	05/29/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
FORD, KENISHA V	2812	438-148000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1_____

2_____

3_____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/084,042	03/21/2005	Koji Kitani	03500.110426.	8051

5514 7590 02/29/2008

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

EXAMINER
FORD, KENISHA V

ART UNIT	PAPER NUMBER
2812	

DATE MAILED: 02/29/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 514 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 514 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	11/084,042	KITANI, KOJI	
	Examiner	Art Unit	
	KENISHA V. FORD	2812	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Amendment filed on 1/1/08*.

2. ☒ The allowed claim(s) is/are *1,2 and 4-8*.

3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☒ All b) ☐ Some* c) ☐ None of the:
      1. ☒ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Michael S. Lebentritt/
SPE-AU 2812

DETAILED ACTION

This Office Action is in response to the Amendment filed on 11 January 2008. Currently, claims 1, 2 and 4-8 are pending. Claim 3 has been cancelled.

Allowable Subject Matter

1. Claims 1, 2 and 4-8 allowed.

2. The following is an examiner's statement of reasons for allowance: the prior art of record does not disclose the steps of removing the sacrificial layer and film deposition on the layer includes a decrease in thickness on the edge gradually to substantially to zero.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

3. Applicant's arguments, see Remarks p. 5, filed 1/11/08, with respect to claims 1 & 7 have been fully considered and are persuasive. The rejection of claims 1 & 7 has been withdrawn.

4. Applicant's arguments, see Remarks p. 5, filed 1/11/08, with respect to claims 2 & 4-6 have been fully considered and are persuasive. The objection of claims 2 & 4-6 has been withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENISHA V. FORD whose telephone number is (571)270-3328. The examiner can normally be reached on Monday-Thursday 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Lebentritt can be reached on (571) 272-1873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KVF

/Michael S. Lebentritt/
Supervisory Patent Examiner, Art Unit 2812

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

Paper No.

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

COPY MAILED
MAY 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Wei Jiang, Ismail Paya,	:	
John Whited, Michael Guo,	:	
Yordan Rouskov and Adam Back	:	DECISION REFUSING STATUS
Application No. 11/084,051	:	UNDER 37 CFR 1.47(a)
Filed: March 18, 2005	:	
Atty Docket No. MS1-2346US	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.47(a)," filed October 21, 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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 18, 2005, without an executed oath or declaration but with an application data sheet identifying the inventors. (The application was also missing the application, examination and search fees). Accordingly, on April 21, 2005, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e)(and the missing fees).

signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of an E-mail or Internet search.

As to the deficiency in meeting requirement (2), the declaration is unacceptable as it does not include the residence and/or mailing addresses of inventors Whited, Jiang or Back. The declaration includes their addresses as those of the Microsoft Corporation. However, the evidence of record does not support a conclusion that this address is the address where these inventors customarily receive mail. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he 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. The instant application includes an application data sheet (ADS), but neither inventor Whited's, Jiang's or Back's addresses are indicated on the ADS. (Addresses where inventors Paya, Guo, and Rouskov may customarily receive mail are supplied on the ADS).

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Whited, including the information required for inventors Whited, Jiang and Back, should be supplied. Alternatively, petitioner may satisfy the deficiencies of the declaration by way of submission of a supplemental application data sheet. See 37 CFR §§ 1.67(a)(3) and 1.76(c)(1).

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

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

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

By hand: Customer Service Window
Randolph Building

401 Dulany Street
Alexandria, VA 22314

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

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.

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

COPY MAILED
JUN 0 8 2006
OFFICE OF PETITIONS

In re Application of	:	
Wei Jiang, Ismail Paya,	:	
John Whited, Michael Guo,	:	**RE-MAILED**
Yordan Rouskov and Adam Back	:	DECISION REFUSING STATUS
Application No. 11/084,051	:	UNDER 37 CFR 1.47(a)
Filed: March 18, 2005	:	
Atty Docket No. MS1-2346US	:	

This is a decision on the "PETITION UNDER 37 C.F.R. §1.47(a)," filed October 21, 2005.

Applicant promptly advised the undersigned that the original decision mailed May 12, 2006 was missing page 2 upon receipt. The decision is being re-mailed and the period of reply reset from the mailing date of this decision.

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 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 18, 2005, without an executed oath or declaration but with an application data sheet identifying the inventors. (The application was also

missing the application, examination and search fees). Accordingly, on April 21, 2005, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring submission of an executed oath or declaration and payment of the surcharge for late filing under § 1.16(e)(and the missing fees). This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants timely filed the instant petition, along with payment of the petition fee and of the late surcharge; and three declarations executed in combination by joint inventors Jiang, Paya, Guo, Rouskov and Back on behalf of themselves and on behalf of non-signing inventor Whited (and the application, search and examination fee). The petition was made timely by an accompanying petition and fee for extension of time for response within the fourth month. On petition, applicants assert that status under § 1.47(a) is proper because inventor Whited cannot be reached and/or may refuse to execute the application papers.

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

The petition includes payment of the petition fee and states a last known address for non-signing inventor Whitehead.

Alternatively, rule 47 applicants have not submitted adequate proof that inventor Whited could not be reached or found after diligent effort. The email sent to inventor Whited was returned as undeliverable. The application papers were delivered to the last known address of inventor Whited, but were signed for by a party that is not clearly affiliated with inventor Whited. Thus, it is unclear as to whether the address utilized was a proper address for that inventor. Further, applicants have not shown that additional efforts were made to reach or locate the non-signing inventor. Petitioner does not indicate whether they utilized resources such as the Internet to locate the inventor. If further attempts to obtain a forwarding address or to locate

the non-signing inventor by other means such as through a working E-mail address, directory assistance, or the Internet continue to fail, then applicants will have provided the necessary proof required under 37 CFR § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should also submit documentary evidence such as the results of an E-mail or Internet search.

As to the deficiency in meeting requirement (2), the declaration is unacceptable as it does not include the residence and/or mailing addresses of inventors Whited, Jiang or Back. The declaration includes their addresses as those of the Microsoft Corporation. However, the evidence of record does not support a conclusion that this address is the address where these inventors customarily receive mail. 37 CFR § 1.63(c) provides that unless such information is supplied on an application data sheet in accordance with § 1.76, the oath or declaration must also identify ... [t]he 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. The instant application includes an application data sheet (ADS), but neither inventor Whited's, Jiang's or Back's addresses are indicated on the ADS. (Addresses where inventors Paya, Guo, and Rouskov may customarily receive mail are supplied on the ADS).

On renewed petition, a new oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Whited, including the information required for inventors Whited, Jiang and Back, should be supplied. Alternatively, petitioner may satisfy the deficiencies of the declaration by way of submission of a supplemental application data sheet. See 37 CFR §§ 1.67(a)(3) and 1.76(c)(1).

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

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

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

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

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

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
ALEXANDRIA, VA 22313-1450
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Paper No.

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

COPY MAILED

SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Wei Jiang, Ismail Paya,	:	
John Whited, Michael Guo,	:	
Yordan Rouskov and Adam Back	:	DECISION ACCORDING STATUS
Application No. 11/084,051	:	UNDER 37 CFR 1.47(a)
Filed: March 18, 2005	:	
Atty Docket No. MS1-2346US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. §1.47(a)," filed August 8, 2006.

The petition is **GRANTED**.

The above-identified application was filed on March 18, 2005, without an executed oath or declaration but with an application data sheet identifying the inventors. In response to the Notice to File Missing Parts of Nonprovisional Application mailed April 21, 2005 on October 21, 2005, applicants filed the initial petition under § 1.47(a). By decision mailed June 8, 2006, the petition was dismissed for failure to submit adequate proof of the unavailability of inventor Whited and for failure to submit an acceptable declaration. The proof submitted was not adequate to conclude that inventor Whited could not be found or reached after diligent effort. Neither the declaration nor the application data sheet (ADS) of record included the residence and/or mailing address of all of the inventors within the meaning of the rule (i.e., addresses where the inventors customarily receive mail).

On instant renewed petition, rule 47 applicants submitted additional evidence to support a conclusion that inventor Whited is unavailable to join in the application. This evidence has

been considered and found adequate. In addition, rule 47 applicants have submitted a supplemental ADS with the residence and/or mailing addresses of all of the inventors.

The declaration filed October 21, 2005 is now in compliance with § 1.63. The petition previously included authorization to charge the petition fee and the last known address of the non-signing inventor.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

The instant renewed petition was timely filed within 2 months of the mailing date of the dismissal. No additional petition fee is required on renewed petition.

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

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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MR. JOHN WHITED
31775 NE 171st STREET
DUVALL, WA 98019

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SEP 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Wei Jiang, Ismail Paya,	:	
John Whited, Michael Guo,	:	LETTER
Yordan Rouskov and Adam Back	:	
Application No. 11/084,051	:	
Filed: March 18, 2005	:	
Atty Docket No. MS1-2346US	:	

Dear Mr. Whited:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/27/2010

Applicant	: Ron Anthon Olsen	: DECISION ON REQUEST FOR
Patent Number	: 7575575	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/084,056	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **97** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PATTERSON, THUENTE, SKAAR &
CHRISTENSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

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SEP 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,523,697 :
James Hedrington :
Issue Date: April 28, 2009 :
Application No. 11/084,059 : DECISION ON REQUEST FOR
Filed: March 18, 2005 : RECONSIDERATION OF
Attorney Dkt. No. 3030.25US02 : PATENT TERM ADJUSTMENT
Title: Tiltable Cooking :
Appliance :

This is in response to the "Petition Under 37 CFR §1.705(d)" filed June 26, 2009. This petition is properly treated under 37 CFR 1.705(d). Patentee requests that the patent term be adjusted from 958 days to 1076 days.

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

On April 28, 2009, the above-identified application matured into US Patent No. 7,523,697 with a patent term adjustment of 958 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. §154(b)(1)(A) overlaps with a delay under 35 U.S.C. §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), 118 of the 406 days, does not overlap with the 958 day period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), as these periods do not occur on the same day. Patentees contend that 288

days overlap from March 19, 2008 to December 31, 2008 as those periods occur on the same day.

Thus, patentee requests that the determination of patent term adjustment be increased by 118 days to a total of one thousand seventy-six (1076) days (the sum of the period of three-year delay (406 days) and the period of examination delay (958 days) minus overlap (288) days of overlap). The 0 days of applicant delay are not in dispute.

The Office finds that as of the issuance of the patent on April 28, 2009, the application was pending three years and 406 days after its filing date. Moreover, as of the issuance of the patent, 958 days of adjustment for Office delay had been accorded pursuant to 35 U.S.C. 154(b)(1)(A) and § 1.702(a)(1). At issue is whether the period of adjustment of 406 days attributable to the Office taking in excess of three years to issue the patent overlaps with the adjustment of 958 days attributable to the Office's failure to issue a first Office action no later than fourteen months after the application filing date. The Office is of the position that the 406 days do overlap and thus entry of the 406 days for over three-year pendency is not permitted. Accordingly at issuance, the Office properly entered the greater period of 958 days for Office delay.

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

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

Likewise, 37 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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 18, 2005 to

April 28, 2009. 958 days of patent term adjustment were accorded prior to the issuance of the patent for Office delay pursuant to 37 CFR 1.702(a)(1). Entry of both 406 days pursuant to 37 CFR 1.702(b) for the Office taking in excess of three years to issue the patent and 958 days pursuant to 37 CFR 1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 958 days and then another 406 days. 958 days is the actual number of days issuance of the patent was delayed by the Office.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 958 days (958- 0).

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

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Christina Tartera Donnell for

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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THOMAS M. FREIBURGER
P O BOX 1026
TIBURON, CA 94920

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OFFICE OF PETITIONS

In re Application of	:	
Asil T. Gokcebay et al	:	
Application No. 11/084,064	:	DECISION GRANTING PETITION
Filed: March 17, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 736P	:	

This is a decision on the petition, filed January 6, 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 July 11, 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 in compliance with 37 CFR 1.137(b). However, while the statement of unintentional delay does not comply with the rule, the statement presented will be construed as meaning that "the entire delay in filing the required reply [notification of foreign filing under 35 U.S.C. § 122(b)(2)(B)(iii)] until the filing of a grantable petition was unintentional." Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days as provided by 35 U.S.C. § 122(b)(2)(B)(iii) 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 October 26, 2006, has been mailed under separate cover.

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

This application is being referred to Technology Center Art Unit 2612 for examination in due course.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

DATALOGIC - STOEL RIVES LLP
C/O STOEL RIVES LLP
900 SW 5TH AVENUE
SUITE 2600
PORTLAND OR 97204

In re Patent No. 7,583,178	: DECISION ON REQUEST
Hougen et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/084,072	: PATENT TERM ADJUSTMENT
Filed: March 16, 2005	: and
Atty Docket No. 60814/1085	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred sixty-four (964) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred sixty-four (964) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred sixty-four (964)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,583,178 B2

DATED : **September 1,, 2009** **DRAFT**

INVENTOR(S) : Hougen, 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 503 days

Delete the phrase "by 503 days" and insert – by 964 days--

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

Mail Date: 04/20/2010

Applicant	: Roel Daamen	: DECISION ON REQUEST FOR
Patent Number	: 7589425	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,081	: 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 **407** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Tomoyuki Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7587060	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,117	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 05/17/2010

Applicant : Tomoyuki Watanabe
Patent Number : 7587060
Issue Date : 09/08/2009
Application No: 11/084,117
Filed : 03/21/2005

: 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 **1198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/5/08

Paper No.: —

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/084125 Patent No: 7245845B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE

2852
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JUN 28 2007

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

In re Application of	:
SMITH et al	:
Serial No.: 11/084,166	:Decision on Petition
Filed : March 21, 2005	:
Attorney Docket No.: 09641.0010.01000	:

This letter is in response to the Petition under 37 C.F.R. 1.144 and 1.181 filed on May 7, 2007 requesting reconsideration of the restriction requirement.

BACKGROUND

This application is continuation of application Serial number 09/786817, which was a national stage of PCT/GB99/03031 filed under the provisions of 35 U.S.C. 371. Continuations of applications filed under 35 U.S.C. 371 are eligible for US restriction practice.

On September 13, 2006, the examiner mailed lack of unity requirement in which claims 46-63 were divided into 11 groups. This action should have been prepared using US Restriction practice instead of PCT unity of invention practice.

On October 13, 2006, Applicants elected Group I (Claims 46-61 and 64-66), directed to a method of culturing an ES cell using i) a compound that activates gp130 and ii) PD098059. The response argues lack of unity requirements and asserts that both PD098059 (corresponding to Group I) and U0126 (corresponding to Group II) are direct inhibitors of MEK.

On December 5, 2006 the examiner considered the traversal, made the restriction requirement FINAL. Applicants newly filed claims 64-66 were withdrawn from consideration as being directed to non-elected inventions.

The examiner mailed to applicants a non-final Office action, in which Group I (Claims 46-61) drawn a method of culturing an ES cell using i) a compound that activates gp130 and ii)

PD098059 were searched and examined on the merits. The claims were rejected under 112, 2nd paragraph; 112, 1st paragraph for lack of description; and under 102(a) and double patenting.

On May 7, 2007, applicants filed a response to the outstanding Office action and this petition to request that the Office reconsider the restriction requirement.

DISCUSSION

The petition and extensive file history have been carefully considered.

A) Consideration of Lack of Unity practice versus Restriction practice

The examiner's and the applicant's arguments are directed at Lack of Unity determinations under PCT rules. It is noted that:

> **This is a Continuation of Application No. 09/786,817, filed June 8, 2001, incorporated herein by reference.**

Continuations of national stage applications are filed under 35 U.S.C. 120 and subject to Restriction practice. Neither the examiner nor applicants have noted on the record that this application should have been evaluated under US restriction practice. The Petition Decision will be drafted in accordance to US Restriction Practice.

B) Consideration of the Restriction Requirement set forth between Groups I-XI.

The request for rejoinder of Group XI is dismissed because the claim directed to Group XI has been canceled.

As for the restriction requirement between Groups I-X, all of Groups I-X require a compound that activates gp130. The difference between Groups I-X is that each drawn to a different species of gp130 activators listed in the alternative of original claim 63.

> **63. (New) The method of Claim 46, wherein compound (ii) is selected from PD098059, U0126, Ro 09-2210, ERK peptide, Anthrax Lethal Factor, PD158780, pervanadate, PD58029, wortmannin and SL327.**

Claim 63 has now been cancelled. Only claims 46 and 59 recite the specific compounds that inhibit MEK which resulted in Groups I-X.

The latest claim amendment has reduced the pending subject matter to Groups I and II, as described below:

Group I, claim(s) 46-61 and 63, drawn to a method of culturing an ES cell using i) a compound that activates gp130 and ii) PD098059.

Group II, claim(s) 46-61 and 63, drawn to a method of culturing an ES cell using i) a compound that activates gp130 and ii) U0126.

Thus the petition decision will consider the propriety of restriction requirement between Group I and II.

C) Consideration of Linking Claims

The petition notes that the restriction has "destroyed the genus of compounds (ii), by separating each species into different groups, while leaving the genus of compounds (i) intact" (page 5 of Petition). Moreover, the petition asserts that "it is an abuse of discretion for the Examiner to refuse to examine a genus which applicants regard as their invention and the art considers to be a legitimate class." The petition suggests an election of species may be appropriate (page 6, of Petition) citing PCT guidelines.

Independent claim 46 is set forth below.

46. (Currently amended) A method of maintaining a culture of embryonic stem (ES) cells in a self-renewing state, comprising culturing the ES cells in the presence of a compound (i) that activates gp130, and a compound (ii) that ~~directly~~ inhibits MEK.

Applicants are correct that independent claim 46 is a genus claim encompassing the method of using the compounds of Group I and Group II. As such, claim 46 is a linking claim. The Office cannot and has not refused to examine claim 46.

While the examiner appears to have correctly examined the broad scope of Claim 46 and rejected claims 46-61 under 112/1st Written description (see page 5 of the office action mailed December 5, 2006), identification of Claims 46, 50-51, 56, 60-61, 64, 66 as linking claims was not made.

To clarify the record, MPEP 809 provides direction for linking claims. MPEP 809 specifically states "[l]inking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions)."

The MPEP further provides that

> "Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions **shall** be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104 **Claims that require all the limitations of an allowable linking claim** will be entered as a

matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

In an effort for compact prosecution, Claims 46, 50-51, 56, 60-61, 64, 66 have been deemed linking claims because they are not limited to any of the specific activators recited in the alternative of original claims 49 or 63.

Claim 46, 49-51, 56, 60-61, 64, 66 link(s) inventions of Groups I and II, where the culture comprises PD098059 and where the culture comprises U0126. The restriction requirement between the linked inventions is subject to the nonallowance of the linking claim(s), claim 46, 49-51, 56, 60-61, 64, 66. Upon the indication of allowability of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise requiring all the limitations of the allowable linking claim(s) will be rejoined and fully examined for patentability in accordance with 37 CFR 1.104. Claims that require all the limitations of an allowable linking claim will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

Applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, the allowable linking claim, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. In re Ziegler, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Because Claim 46 appears to have been broadly examined for "a compound that inhibits MEK" and rejected under 112 1st Written Description, the further examination of the linking claim or of inventions linked by claim 46 is not required at this time.

D) Withdraw of claims 64-66 from consideration in Office action mailed 5 December 2006

Because Claim 65 has been cancelled in the amendment filed 7 May 2007, it will not be considered for rejoinder.

Claims 64 and 66 were withdrawn by the examiner despite depending on Claim 46 and 56 respectively. The examiner cites MGI webpage to indicate that MEK, MEK-1 and MEK-2 as three different proteins. However the document indicates that MEK is the old symbol for a newly named Mdk. The petition cites NCBI, Biocompare, and two non-patent literature documents to illustrates that MEK is a family of proteins which includes MEK1-MEK7. Given the state of the art and the dependency of Claims 64, 66 on Claims 46 and 56, respectively, Claims 64 and 66 are within the scope of Claims 46 and 56. For this reason, claims 64 and 66 will be rejoined with Group I for examination.

DECISION

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

The restriction requirement made between Groups III-XI is not being considered because all claimed directed to these groups have been cancelled.

The restriction requirement made between Groups I-II has been modified to clearly indicate that PD098059 and U0126 are species within "compounds (ii) that inhibits MEK".

Claims 46, 50-51, 56, 60-61 will be considered as linking claims and should they become allowable, any claim depending from or otherwise including all the limitations of claims 46, 50-51, 56, 60-61, 64, 66 would be considered for rejoinder, per MPEP 821.04(a).

Claims 64 and 66 which directly depend on Claim 46 and 56 respectively shall be examined as linking claims because MEK appears to be a family of proteins including MEK1-MEK7. Claims 64 and 66 are merely narrower embodiment of claim 46.

The application will be forwarded to the examiner for further action consistent with this decision and for consideration of the papers filed 7 May 2007.

Any request for reconsideration must be filed within two (2) months of the mailing date of this 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.

Christopher Low
Christopher Low
Director, Technology Center 1600 (Acting)
jb/jg

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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AUG 31 2005

OFFICE OF PETITIONS

In re Application of	:	
Alan R. Roberts	:	
Application No. 11/084,189	:	DECISION GRANTING
Filed: April 19, 2005	:	STATUS UNDER
Attorney Docket No.	:	37 CFR 1.47(b)
026270-00002	:	

This is in response to the Petition Under 37 CFR §1.47(b), filed August 10, 2005, to allow a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, to make application on behalf of and as agent for all inventors.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Alan R. Roberts, refuses to join in the application.

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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MR. ALAN R. ROBERTS
C/O MR. ALAN H. FELDSTEIN
COLLINS McDONALD & GANN, P.C.
3768 VINELAND AVENUE
STUDIO CITY, CA 91604

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Alan R. Roberts	:	
Application No. 11/084,189	:	LETTER
Filed: April 19, 2005	:	
Attorney Docket No.	:	
026270-00002	:	

Dear Mr. Roberts:

You are named as the inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(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 the inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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CARGILL, INC.
15407 McGinty Road West
Wayzata, MN 55391-2399

In re Application of	:	
Ansui XU et al.	:	
Application No. 11/084,197	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 005216.00065	:	FROM RECORD
	:	

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, 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 requested the transfer of the application, 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

DAVID TILLER
2415 UNION HILL RD.
GOODLETTSVILLE TN 37072

In re Application of	:	
Tiller, et al.	:	DECISION
Application No.: 11/084,248	:	
Filing Date: 17 March, 2005	:	
Attorney Docket No. Tiller-Roos	:	

This is a decision on the letter considered as a petition filed on 16 November, 2006, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

The petition as considered under 37 C.F.R. §1.181 is **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 Missing Parts (copy enclosed) mailed on 18 April, 2005, with reply due absent extension of time on or before 18 June, 2005;
- the application went abandoned by operation of law after midnight 18 June, 2005;
- the Office mailed a Notice of Abandonment (copy enclosed) on 25 September, 2006;
- on 16 November, 2006, Petitioner filed the instant petition with, *inter alia*, an averment that he did not receive any papers after the Notice of Publication, but made a statement of search, and provided no provided docket records for the instant application or for the due date of the reply as set forth in the guidance of the Commentary at MPEP §711.03(c), as discussed below.

Notably, the availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner immediate and on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

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[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.

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

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

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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]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt,[9] and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[10]))

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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] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[11]

The commentary at MPEP §711.03(c) provides:

* * *

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133). To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner 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 nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

* **

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the

[11] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). (Emphasis supplied.)

* * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears that Petitioner has not satisfied the showing requirement herein.

CONCLUSION

Because it appears that Petitioner has not satisfied the burdens herein, the petition as considered under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Petitioner may wish to file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)[12]

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, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

[12] See fee schedule: http://www.uspto.gov/main/howtofees.htm

Further correspondence with respect to this matter should be addressed as follows:[13]

By mail: Commissioner for Patents[14]
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[15]) 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

---

[13] 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 .)

[14] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAY 19 2008

OFFICE OF PETITIONS

DAVID TILLER
2415 UNION HILL RD.
GOODLETTSVILLE TN 37072

In re Application of	:	
Tiller, et al.	:	
Application No.: 11/084,248	:	DECISION
Filing Date: 17 March, 2005	:	
Attorney Docket No. Tiller-Roos	:	

This is a decision on the petition filed on 11 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition is **DISMISSED**.

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

<u>As to the Allegations of Unintentional Delay</u>

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.)

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks a proper and complete PETITION FEE. Petitioner's attention is drawn to the FEES page of the Office website (www.uspto.gov) before filing any papers before the Office.

Petitioner always should consult the Office website to ensure that he is aware of the proper fees to tender.

The Office recognizes that Petitioner appears to be prosecuting this matter *pro se* (although there is a reference in his petition to a law office guiding his actions), however, all Applicants are required to comply with the proper practice before the Office.

If Petitioner has questions in this regard, Petitioner is directed to the Manual of Patent Examining Procedure (MPEP) the contents of which will be found at http://www.uspto.gov/web/offices/pac/mpep/mpep.htm , with a detailed Subject Matter Index contained therein. (Petitioner may wish to contact the Independent Inventors Assistance Center (1-800-PTO-9199) for guidance in this regard.)

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers mailed on 18 April, 2005, with reply due absent an extension of time on or before 18 June, 2005.

The application went abandoned by operation of law after midnight on 18 June, 2005.

Thee Office mailed the Notice of Abandonment on 25 September, 2006.

On 16 November, 2006, Petitioner filed a letter considered as a petition under 37 C.F.R. §1.181, and averred therein, *inter alia*, that an averment that he did not receive any papers after the Notice of Publication, but made no statement of search, and provided no provided docket records for the instant application or for the due date of the reply as set forth in the guidance of the Commentary at MPEP §711.03(c)—and the petition was dismissed on 24 September, 2007.

On 11 October, 2007, Petitioner filed the instant petition (with no petition fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form

of fees previously due (search and examination fees), and made the statement of unintentional delay.

Petitioner's attention again is directed to the FEES page (http://www.uspto.gov/web/offices/ac/qs/ope/fee2007september30_2007dec17_2008may15.htm) at the Office website (www.uspto.gov). Petitioner's attention also is directed to the guidance as to petitions to revive under the provisions of 37 C.F.R. §1.137(b) set forth in the Commentary at MPEP §711.03(c): http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Nov-07

TIMOTHY D. BENNETT
BROUSE MCDOWELL, LPA
STE. 500
388 S. MAIN STREET
AKRON OH 44311-4407

COPY MAILED

NOV 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Berg et al.	:	DECISION ON PETITION TO
Application Number: 11/084277	:	WITHDRAW HOLDING OF
Filing Date: 03/18/2005	:	ABANDONMENT
Attorney Docket Number:	:	
21649.29025	:	

This is a decision on the petition filed on 5 October, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 19 December, 2006, which set a one (1) month shorted statutory period for reply. Notice of Abandonment was mailed on 20 August, 2007.

Petitioners assert that the Notice mailed on 19 December, 2006, was never received.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish 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 Notice was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice on the part of the United States Patent and Trademark Office.

In support, the petition includes a statement from the practitioner, Timothy D. Bennett, stating that the Office communication was not received by the practicioner, and attesting to the fact that a search of the file jacket indicates that the Office action was not received. A copy of the docket record for the instant application, where the non-received Notice would have been entered had it been received and docketed, is attached.

The petitioner has made a sufficient showing of nonreceipt of the Notice mailed on 19 December, 2006. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

It is noted that applicant has filed an amendment in reply to the Notice mailed on 19 December, 2006, with the present petition. As such the Notice will not be remailed.

The application file is being referred to Technology Center Art Unit 3663 for consideration of the reply filed with the present petition.

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
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

AUG 2 7 2007

In re Application of	:	
Brue et al.	:	DECISION
Serial No. 11/084,292	:	ON
Filed: March 18, 2005	:	PETITION
For: PROCESS FOR MAKING YOGURT	:	UNDER 708.02, VIII
CREAM CHEESE, AND THE RESULTING	:	
PRODUCTS	:	

This is in response to the petition filed March 18, 2005, requesting that the above-identified application be granted Special Status under Sections 708.02 (VIII) of the MPEP and 37 CFR 1.102(c).

A review of the application file revealed a notice of allowance mailed on May 11, 2007. As prosecution is closed, the petition is considered to be moot. Accordingly the petition is **DISMISSED.**

William Krynski, Quality Assurane Specialist
Technology Center 1700
Chemical and Materials Engineering

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.
11/084,312	03/18/2005	Tsunayuki Ohwa	112857-605	9053

29175 7590 01/17/2008
BELL, BOYD & LLOYD, LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER
CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
01/17/2008	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

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.
11/084,312	03/18/2005	Tsunayuki Ohwa	112857-605	9053

7590 01/17/2008
BELL, BOYD & LLOYD, LLP
P. O. BOX 1135
CHICAGO, IL 60690

EXAMINER
CALDWELL, ANDREW T

ART UNIT	PAPER NUMBER
2142	

MAIL DATE	DELIVERY MODE
01/17/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Ricardo Clemons
Patent Publication Branch
Office of Data Management

02 FC:1111 -500.00 OP

04 FC:1202 -50.00 OP

FORM PET651G (Rev. 08/07)

Notice of Abandonment	Application No.	Applicant(s)	
	11/084,312	OHWA ET AL.	
	Examiner	Art Unit	
	Caldwell, Andrew	2142	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/084,313	03/18/2005	Takao Tani	P04-1040

YOKOI & CO. U.S.A., INC.
13700 MARINA POINTE DRIVE #723
MARINA DEL RAY CA 90292

DATE MAILED: March 29, 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 12, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
DaCosta et al.	:	DECISION ON PETITION
Application No. 11/084,330	:	UNDER 37 CFR 1.78(a)(6)
Filed: 17 March, 2005	:	
For: MULTIPLE-RADIO MISSION	:	
CRITICAL WIRELESS MESH NETWORKS	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed on 26 September, 2005, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/618,751, as set forth in the amendment filed on 14 October, 2005.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

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. 60/618,751, which was

filed on 17 March, 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 proper amendment (complying with 37 CFR 1.121 or 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

Additionally, the amendment and the present petition are objected to because they have not been signed in accordance with 37 CFR 1.33(b). 37 CFR 1.33(b) requires that amendments and other papers filed in an application must be signed by a registered patent attorney or agent, an assignee in accordance with 37 CFR 3.71(b), or all of the applicants. The amendment and petition, however, are signed by only one of the joint inventors, Francis DeCosta. A properly signed amendment and petition in compliance with the above paragraph should be filed to correct the deficiencies.

Lastly, the revocation and power of attorney by assignee filed on 27 February, 2006, cannot be accepted because the showing of record does not indicate that the above-identified application claims benefit of the application under which the assignment is recorded. Petitioners should verify, in any renewed petition, that the power of attorney references the correct assignment document. As the papers have been signed by a registered patent attorney, however, a copy of this decision will be forwarded to

the address listed therein. All future correspondence will be mailed solely to the address of record.

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

By mail: Mail Stop 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 decision on petition may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Lead Paralegal
Office of Petitions

cc: Intellectual Property Law Group LLP
Old Bank of America Bldg.
12 South First Street, 12th floor
San Jose CA 95113

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE CA 95113

COPY MAILED
DEC 2 0 2006
OFFICE OF PETITIONS

In re Application of	:
da Costa et al.	:
Application No. 11/084,330	: DECISION ON PETITION
Filed: 17 March, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. DACOSTAF.CIP3	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed on 1 August, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the amendment filed on 20 November, 2006.

The petition is **GRANTED**.

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) 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) 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.

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 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 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.

It is noted that the preliminary amendment filed with the present petition does not correctly reference the filing date of the prior-filed provisional application. However, on 20 November, 2006, prior to the mailing of this decision, a new preliminary amendment was filed referencing the correct filing date for prior-filed provisional application No. 60/618,751.

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

Receipt of the power of attorney filed with the present petition is acknowledged.

Any inquiries concerning this decision may be directed to Patent 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 matter is being referred to Technology Center Art Unit 2617 for appropriate action on the amendment filed on 20 November, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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
11/084,330	03/17/2005	2617	1090	DACOSTAF.CIP3	21	9	7

CONFIRMATION NO. 3657

CORRECTED FILING RECEIPT

OC000000021473257

24943
INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

Date Mailed: 12/05/2006

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)

Francis daCosta, San Jose, CA;
Sriram Dyanandan, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number **24943**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/434,948 05/08/2003
and claims benefit of 60/554,246 03/17/2004
and claims benefit of 60/618,751 10/14/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/23/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/084,330

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Multiple-radio mission critical wireless mesh networks

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

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DEC 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Francis Dacosta, et al.	:	
Application No. 11/084,330	:	DECISION ON PETITION
Filed: March 17, 2005	:	TO WITHDRAW
Attorney Docket No. DACOSTAF.CIP3	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 15, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Intellectual Property Law Group, LLP has been revoked by the assignee of the patent application on August 7, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: LEE VAN PELT, ESQ.
VAN PELT, YI & JAMES, LLP
10050 N. FOOTHILL BLVD.
SUITE 200
CUPERTINO, CA 95014-5601

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
11/084,330	03/17/2005	Francis daCosta	DACOSTAF.CIP3

CONFIRMATION NO. 3657

POWER OF ATTORNEY NOTICE

24943
INTELLECTUAL PROPERTY LAW GROUP LLP
12 SOUTH FIRST STREET
SUITE 1205
SAN JOSE, CA 95113

OC000000027315510

Date Mailed: 12/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2007.

- 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).

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/084,330	03/17/2005	Francis daCosta	MESHP005

CONFIRMATION NO. 3657

POA ACCEPTANCE LETTER

21912
VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

OC000000027315547

Date Mailed: 12/17/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2007.

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.

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Kiliccote, Han	:	
Application No. 11/084,332	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 020303-00001	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 9, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Request for Continued Examination (RCE) and 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.

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

This matter is being referred to Technology Center 3600 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

ANTHONY G. SMYTH
2475 HANOVER STREET
PALO ALTO, CA 94304

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED
DEC 0 8 2008

In re Application of	:	
ANDERSON, Craig A. et al.	:	
Application No. 11/084,334	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. **027466-000300US**	:	FROM RECORD
	:	

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 06, 2008.

The request is **moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on November 17, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **STOEL RIVES LLP**
900 SW FIFTH AVENUE
SUITE 2600
PORTLAND OR 97204-1268

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 09-05

Paper No: __

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SEP 2 2 2005

OFFICE OF PETITIONS

XIDEX CORPORATION
SUITE 105
8906 WALL STREET
AUSTIN TX 78754

In re Application of	:	
Mancevski, et al.	:	
Application No. 11/084,336	:	ON PETITION
Filed: 18 March, 2005	:	
Attorney Docket No. 2060-16151-US-DIV1	:	

This is a decision on the petition filed on 25 May, 2005, under 37 C.F.R. §1.53, to obtain a filing date of 18 March, 2005, for Figs. 43 - 46, as described in the specification of the instant application.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

After this application was deposited on 18 March, 2005:

- on 21 April, 2005, the Office mailed a Notice of Omitted Items indicated that, while the application had been accorded a filing date, it appeared that Figs. 43 - 46, as described in the specification, had been omitted on deposit. OIPE indicated that Petitioner might: contend via petition (with a copy of the item(s)) that the omitted item(s) had been submitted and Petitioner might file a petition under 37 C.F.R. §1.182 (considered under 37 C.F.R. §1.53) as to that contention; submit the omitted item and accept the date of submittal as the filing date, or accept the application in the form the Office indicated it had been received. And OIPE set a two- (2-) month period for reply;

- Petitioner filed the instant petition (with fee) on 25 May, 2005, with, *inter alia*, a copy of the date-stamped ("031805") receipt card (see: MPEP §503[1]), copies of what are averred to be the Figs. 43 - 46, as described in the specification, as averred to have been filed, and, a request for a filing date of 18 March, 2005, for Figs. 43 - 46, as described in the specification.

Analysis

A search of the official file reveals that:

- on 18 March, 2005, Petitioner deposited the instant application;

- the date-stamped receipt card evidences the following, in pertinent part:

* * *

3. Specification (59 pgs.);
4. Drawings (46 pgs.);

* * *

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

The sheets of figures submitted by Petitioner with the instant petition and present in the file before the instant petition was filed are numbered sequentially, 1/46 - 42/46, and there are no duplicate sheets among them; and those submitted by Petitioner with the instant application are numbered sequentially, 43/46 - 46/46, with no duplicate sheets among them.

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including Figs. 43 - 46, as described in the specification, was deposited with the Office on 18 March, 2005, and the Figs. 43 - 46, as described in the specification, subsequently were misplaced in the Office.

Accordingly, the application, including Figs. 43 - 46, as described in the specification, is entitled to a filing date of 18 March, 2005.

The Notice of Omitted Items mailed on 21 April, 2005, was sent in error and is hereby vacated to the extent that it stated that the application was filed omitting Figs. 43 - 46, as described in the specification.

CONCLUSION

The petition is **granted** and the petition fee waived and refunded.

This application is released to OIPE for further processing with a filing date of 18 March, 2005, for the entire application, including Figs. 43 - 46, as described in the specification, with pages 1 - 59 of the specification (description, claims and abstract) and 46 sheets of drawings, as described in the specification, using:

- **pages 1 - 59 of specification (description, claims and abstract) and 42 sheets of drawings, Figs. 1 - 42, as described in the specification, deposited on 18 March, 2005; and**

- **Figs. 43 - 46, as described in the specification, deposited on 25 May, 2005; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 18 March, 2005, and reflecting therein that 59 pages of specification (description, claims and abstract) and 46 sheets of drawings were present on filing.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KIMTON N. ENG
DORSEY & WHITNEY LLP
1420 FIFTH AVENUE, SUITE 3400
SEATTLE, WA 98101

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MAY 26 2006
OFFICE OF PETITIONS

In re Application of :
Wanmo Wong :
Application No. 11/084,338 : ON PETITION
Filed: March 17, 2005 :
Attorney Docket No. 501222.02(30210/US/2)

This is a decision on the petition filed, May 25, 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 May 2, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2187 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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JONES DAY
500 GRANT STREET
SUITE 3100
PITTSBURGH PA 15219-2502

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OFFICE OF PETITIONS

In re Application of	:	
Shigeki Tomishima	:	
Application No. 11/084,345	:	DECISION ON PETITION
Filed: March 17, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. DB001156-000	:	

This is a decision on the petition filed August 31, 2007, which is being treated under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Japanese Application No.2005-37029, filed February 15, 2005.

The petition is **DISMISSED**.

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

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

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

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

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

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

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

The petition fails to comply with item (2) above. In this regard, a review of the file record fails to disclose that the priority information was included in an oath or declaration or in an Application Data Sheet (ADS) in accordance with 37 CFR 1.76(b)(6). Unless provided in an ADS, 37 CFR 1.63(c)(2) requires that the oath or declaration must identify the foreign application for patent (or inventor's certificate) for which priority is claimed under 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing. *Note* MPEP 201.14.

In view of the above, compliance with 37 CFR 1.63(c)(2) or 37 CFR 1.76(b)(6) must be satisfied if applicant desires to claim priority to the foreign application noted in the petition. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."

Additionally, petitioner may want to consider filing a petition under 37 CFR 1.313, since the application may issue before either the filing or the granting of a renewed petition under 37 C.F.R. 1.55(c).

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) 272-3208.

Karen Creasy

Karen Creasy
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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JONES DAY
500 GRANT STREET
SUITE 3100
PITTSBURGH PA 15219-2502

COPY MAILED

MAY 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Shigeki Tomishima	:	
Application No. 11/084,345	:	DECISION GRANTING PETITIONS
Filed: March 17, 2005	:	
Attorney Docket No. DB001156-000	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee. This is also a decision on the renewed petition filed May 16, 2008 under 37 CFR 1.55(c), to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japan Application No. 2005-37029, filed February 15, 2005.

The petitions are **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 23, 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]

As to the matter under 37 CFR 1.55(c):

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

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

[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.*

(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 17, 2005, which is after November 29, 2000. This application was filed within 12 months of February 15, 2005, (the filing date of the foreign application to which benefit is now being claimed). On May 16, 2008, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 has been paid. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

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

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

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/084,345	03/17/2005	2827	3550	DB001156-000	37	10

CONFIRMATION NO. 9461

CORRECTED FILING RECEIPT

57694
JONES DAY
500 GRANT STREET
SUITE 3100
PITTSBURGH, PA 15219-2502

OC000000030038671

Date Mailed: 05/20/2008

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)
Shigeki Tomishima, Boise, ID;

Assignment For Published Patent Application
Micron Technology, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 57694

Domestic Priority data as claimed by applicant

Foreign Applications
JAPAN 2005-37029 02/15/2005

If Required, Foreign Filing License Granted: 04/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/084,345**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

NEGATIVE VOLTAGE DRIVING FOR THE DIGIT LINE ISOLATION GATES

Preliminary Class

365

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).

28 JUN 2005

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Alexandria, VA 22313-145
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Laurence A. Greenberg
Lerner & Greenberg, PA
P.O. Box 2480
Hollywood, FL 33022-2480

In re Application of	:	
Hoenzelaer	:	DECISION
Application No.: 11/084,349	:	
Filing Date: 18 March 2005	:	ON
Attorney Docket No.: EPH-80483	:	
For: Device And Patch For Controlling	:	PETITION
The Release Of Vanillin	:	

This is in response to the petition under 37 CFR 1.137(b) filed 18 March 2005.

BACKGROUND

International application PCT/EP02/13820 ("the international application") was filed on 06 December 2002, claimed an earlier priority date of 07 December 2001, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 12 June 2003. The 30 month time period for paying the basic national fee in the United States expired at midnight on 07 June 2004. The international application became abandoned with respect to the national stage in the U.S. for failure to timely file the full required basic national fee.

On 18 March 2005, counsel filed the instant application under 35 U.S.C. 111(a), along with *inter alia* the instant petition under 37 CFR 1.137(b), which is being treated as a petition to revive the international application for purposes of establishing co-pendency with the instant application.

DISCUSSION

In a telephone conference on 24 June 2005, Atty. Werner Stemer stated that the petition filed on 18 March 2005 was intended to seek revival of international application PCT/EP02/13820 for purposes of establishing co-pendency with the instant continuing application filed under 35 U.S.C. 111(a). A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the filing of the instant continuing application constitutes the required reply.

Regarding requirement (2), the petition fee accompanied the petition.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED** for purposes of establishing co-pendency with the instant application. Co-pendency having been established, international application PCT/EP02/13820 is again **ABANDONED** with regard to the national stage in the United States under 35 U.S.C. 371(d).

Leonard Smith
PCT Legal Examiner
PCT Legal Office

George M. Dombroske
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3283
Fax: (571) 273-0459

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

AUG 17 2009

OFFICE OF PETITIONS

In re Application of	:	
Lincoln McBride et al.	:	DECISION
Application No. 11/084,357	:	AMENDING INVENTORSHIP
Filed: March 18, 2005	:	
Attorney Docket No. 020174-010850US	:	

This is a decision on the petitions, filed May 15, 2009, under 37 CFR §§ 1.48(a) and 1.183 to waive the requirement of 37 CFR 1.64 that the non-signing original inventor re-execute the supplemental declaration and correct the inventorship of the above-noted application.

The petitions are **GRANTED.**

The petition under 37 CFR 1.48(a) includes a request to correct the inventorship that sets forth the desired inventorship change, statements from each person being added as an inventor that the error in inventorship occurred without deceptive intention on his part, the processing fee set forth in § 1.17(i), and the written consent of the assignee to the correction.

In regard to the required declaration by the actual inventors, petitioner has requested that the supplemental declaration be accepted without the signature of Lincoln McBride who signed the original declaration. On very infrequent occasions, the requirements of 37 CFR 1.64 have been waived upon the filing of a request and the fee set forth in § 1.17(f) for a petition under 37 CFR 1.183 (along with the supplemental oath or declaration) to permit the acceptance of that supplemental oath or declaration signed by less than all the originally signing named inventors. Petitions under 37 CFR 1.47 are only applicable to the initial execution of an original oath or declaration by a given inventor and are not applicable to the re-execution of another or supplemental oath or declaration by that originally signing inventor. In such circumstances, the USPTO will consider a petition under 37 CFR 1.183 requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the supplemental oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached.

Here, petitioner submits that the signature of originally-named inventor Lincoln McBride could not be obtained. This is accompanied by the assignee's written consent to the requested change. From this statement and assignee's consent, the signature requirement is hereby waived. Also, the fee set forth in §

1.17(f) for a petition under 37 CFR 1.183 has been charged to Deposit Account No.20-1430 as authorized.

In view of the papers filed May 15, 2009, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, failed to properly set forth the inventorship. Accordingly, the inventorship has been corrected in compliance with 37 CFR 1.48(a). The inventorship has been changed by the addition of: Michael Lucero of San Francisco, California and Hany Ramez Nassef of San Mateo, California.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

Mail Date: 04/23/2010

Applicant	: Lincoln McBride	: DECISION ON REQUEST FOR
Patent Number	: 7604965	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,357	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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TECHNOLOGY CENTER 2100

AKERMAN SENTERFITT
P.O. Box 3188
West Palm Beach, FL 33402-3188

In re Application of:	)
John David BACCHIAZ, et al	) DECISION ON PETITION TO MAKE
Application No.: 11/084,367	) SPECIAL UNDER 37 C.F.R. §1.102(c)
Filed: March 18, 2005	) AND MPEP § 708.02 (IV):
For: BIOMETRIC SECURITY ASSEMBLY	) APPLICANT'S AGE

This is a decision on the petition, filed May 15, 2005, under 37 C.F.R. §1.102(c) and M.P.E.P. §708.02(IV): Applicant's Age, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02,Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102 and in accordance with M.P.E.P. § 708.02, IV ***must include a showing, as by a birth certificate or the applicant's affidavit or declaration, that the applicant is sixty five (65) years of age or more.*** No fee is required for this petition.

The petition does not include a satisfactory showing that applicant, John David Bacchiaz, is sixty five (65) years of age or more.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by a declaration or statement under oath giving the information as outlined above.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.

For

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

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Mayback & Hoffman, P.A.
5722 S. Flamingo Road #232
Fort Lauderdale, FL 33330

MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Carlos Yidi, Jr.	:	
Application No. 11/084,373	:	DECISION ON
Filed: March 18, 2005	:	PETITION TO WITHDRAW
Attorney Docket No. Yidi/1094	:	FROM RECORD
	:	

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

The request was signed by Gregory L. Mayback on behalf of attorney/agents associated with customer number 27316. All attorneys/agents associated with customer number 27316 have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to address of the inventor at the first copied address below, 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 and a Statement under 37 CFR 3.73(b) must be submitted.

Application No. 11/084,373

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Carlos Yidi, Jr.
808 Brickell Key Drive
Apt #604
Miami, FL 33131

cc: Finotex, Inc.
Attn: Carlos Yidi, Jr.
6942 NW 50th Street
Miami, FL 33166

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/084,373	03/18/2005	Carlos Yidi JR.	YIDI

CONFIRMATION NO. 8556

POWER OF ATTORNEY NOTICE

27316
MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE, FL 33330

OC000000035918476

Date Mailed: 05/11/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/15/2009.

- 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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MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER
255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

In re Application of	:	
ALI, Rod	:	
Application No. 11/084,377	:	DECISION ON PETITION
Filed: March 18, 2008	:	TO WITHDRAW
Attorney Docket No. **60041**	:	FROM RECORD
	:	

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 04, 2009.

The request is **APPROVED**.

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

The request was signed by Michael Taylor on behalf of all attorneys of record who are associated with customer No. 27975. All attorneys/agents associated with the Customer Number 27975 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 04, 2009 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROD ALI**
1425 AGUACATE COURT
ORLANDO FL 32837

cc: **FLEXPACK U.S.A., INC**
7331 PRESIDENTS DRIVE
ORLANDO FL 32809

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JOHN P. D'ANGELO
30 SHERMAN PLACE
MEDFORD MA 02155

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AUG 13 2008

In re Application of	:	
John P. D'Angelo	:	
Application No. 11/084,400	:	DECISION GRANTING PETITION
Filed: March 18, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. JPD-100	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 13, 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 May 16, 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 2837 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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OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

In re Application of
Ishihara
Application No. 11/084,413
Filed: March 18, 2005
Docket No.: O11.2B-11841-US01

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 2006, to revive the above-identified application.

The petition is GRANTED.

This application became abandoned for failure to timely reply to the non-final Office action mailed February 14, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. This decision precedes Notice of Abandonment.

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

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

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

This application is being forwarded to Technology Center 1700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ROBERT A. PARSONS
4000 N. CENTRAL AVENUE, SUITE 1220
PHOENIX AZ 85012

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MAR 3 1 2008

In re Application of	:	
Paul Y. BECHTEL	:	
Application No. 11/084,418	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 4575-A1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 13, 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 $770; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 11/998,880.

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

David Bucci
Petitions Examiner
Office of Petitions

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BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of	:	
Anthony C. Zuppero et al.	:	
Application No. 11/084,425	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. 22122878-79	:	FROM RECORD
	:	

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 19, 2006.

The request is **NOT APPROVED**.

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

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

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

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

Terri Williams for

David Bucci
Petitions Examiner
Office of Petitions

cc: **Neokismet, L.L.C.**
505 Montgomery Street
Suite 300
San Francisco, CA 94111

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Calfee Halter & Griswold, LLP
800 Superior Avenue
Suite 1400
Cleveland, OH 44114

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JUN 08 2009

OFFICE OF PETITIONS

In re Application of	:	
Jason Tingley	:	
Application No. 11/084,430	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. 28331/04015	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 10, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Jonathan M. Waldman and all attorneys/agents of record has been revoked by the assignee of the patent application on February 23, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG PA 17108-1166

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JUN 08 2010

OFFICE OF PETITIONS

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

In re Application of
Purser.
Application No. 11/084,440
Filed: March 18, 2005
Attorney Docket No. 200500143-1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which was mailed November 19, 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 February 20, 2010. A Notice of Abandonment was mailed on March 11, 2010.

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 $1510 issue fee and $300 publication fee, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

A terminal disclaimer fee of $140 will be refunded as a terminal disclaimer in this instance is not required for revival of the application.

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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JAMES A. GAVNEY
HAVERSTOCK & OWENS LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

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OFFICE OF PETITIONS

In re Application of	:	
Jonathan Null et al	:	
Application No. 11/084,449	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. WATT-00201	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 26, 2006, 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 March 21, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 22, 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 payment of the issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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In re Application of	:	
Michael WOOD et al.	:	
Application No. 11/084,456	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 58228/11	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 15, 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 March 16, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an election/amendment; (2) the petition fee of $770.00; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of February 15, 2008 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,115.00 extension of time fee submitted with the petition on February 15, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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Don W. Weber
235 Bristol
Troy, IL 62294

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JUL 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Douglas KESSINGER	:	
Application No. 11/084,520	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 372	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 4, 2005.

The request is **APPROVED**.

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

The request was signed by Don Weber on behalf of all attorneys of record who are associated with customer No. 32823.

All attorneys/agents associated with the Customer Number 32823 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 Douglas Kessinger at the address indicated below.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Douglas Kessinger
11136 Pocahontas Road
Marine, IL 62061

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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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JUL 1 8 2006

OFFICE OF PETITIONS

In re Application of	:	
Woodmansey et al.	:	
Application No. 11/084,547	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. CF/005 CON	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 26, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of the applicant's driver's license. Accordingly, the above-identified application has been accorded "special" status.

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

This matter is being referred to the Technology Center Art Unit 3624 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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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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OFFICE OF PETITIONS

In re Application of

WOODMANSEY, Robert J. et al.
Application No. 11/084,547
Filed: March 18, 2007
Attorney Docket No. **99-1005C1**

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 19, 2008.

The request is **APPROVED**.

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

The request was signed by Laurence Rogers on behalf of all attorneys of record who are associated with customer No. 64558. All attorneys/agents associated with the Customer Number 64558 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **ROBERT J. WOODMANSEY**
KIPPINGS CHURCH LANE
DODDINGHURST
NR. BLACKMORE ESSEX, CM15 0NA
ENGLAND

cc: **DEAN P. ALDERUCCI**
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

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MacPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE, SUITE 226
SAN JOSE, CA 95110

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OFFICE OF PETITIONS

In re Application of	:
Kent Kernahan	:
Application No. 11/084,555	: DECISION GRANTING PETITION
Filed: March 17, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. M-16012-ID US	:

This is a decision on the petition, filed December 6, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 8, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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DUNLAP CODDING, P.C.
PO BOX 16370
OKLAHOMA CITY, OK 73113

Mail Date: 06/29/2010

Applicant	: Rong Z. Gan	: DECISION ON REQUEST FOR
Patent Number	: 7651460	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/084,561	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SANFORD J. PILTCH, ESQ.
1132 HAMILTON STREET, SUITE 201
ALLENTOWN, PA 18101

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In re Application of	:	
Russell J. NOHEJL	:	
Application No. 11/084,562	:	DECISION ON PETITION
Filed: March 18, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **689.3**	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 11, 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 12, 2008.

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

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

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application 12/653,855 filed December 17, 2009.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
Mark G. Erlander et al.	:	
Application No. 11/084,582	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. 022041-002210US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 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 power of attorney was not given to the attorneys and agents associated with Customer Number 20350. Power of attorney was given to the attorneys and agents associated with Customer Number 41578. Resubmit your Request for Withdrawal as Attorney or Agent using the appropriate Customer Number.

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

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

Terri Williams
for
Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Fish & Richardson**
225 Franklin Street, Suite 3100
Boston, MA 02110

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

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MAY 18 2005

OFFICE OF PETITIONS

In re Application of :
Tokida et al. :
Application No. 11/084,586 :
Filed: April 25, 2005 : ON PETITION
Attorney Docket No.: :
OMRNP024D1 :

This is a decision on the Petition Under 37 CFR § 1.182, filed April 25, 2005, requesting the above-identified application be accorded as the filing date, the date that page 19 of the specification, filed with the instant petition, is filed.

Application papers in the above-identified application were filed on March 18, 2005. On April 19, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice"), indicating, *inter alia*, that page 19 of 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).

As provided in the MPEP,

> [t]he mailing of a "Notice of Omitted Items" will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the page(s) at issue (generally by way of a date-stamped, itemized postcard receipt (MPEP § 503)); or (2) promptly submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant desiring to submit the omitted page(s) in a nonprovisional application and accept the date of such submission as the application filing date must, within 2 months from the date of the "Notice of Omitted Item(s)," file any omitted page(s) <u>with an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to such page(s)</u> and a petition under 37 CFR 1.182 with the petition fee set forth in 37 CFR 1.17(h), requesting the later filing date (37 CFR 1.181(f)). An applicant willing to accept

> the application as deposited in the USPTO need not respond to the "Notice of Omitted Items," and the failure to file a petition under 37 CFR 1.53(e) or 37 CFR 1.182 (and the required petition fee) as discussed above within 2 months of the date of the "Notice of Omitted Item(s)" (37 CFR 1.181(f)) will be treated as constructive acceptance by applicant of the application as deposited in the USPTO. Amendment of the specification is required in a nonprovisional application to renumber the pages consecutively and cancel any incomplete sentences caused by the absence of the omitted page(s). Such amendment should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

MPEP 601.01(d)

Applicant files the instant petition and page 19 of the specification, and requests this Office assign the date of the submission as the application filing date.

Accordingly, the petition is **granted**.

The filing date has been corrected to April 25, 2005.

It is noted that a and Notice to File Missing Parts of Nonprovisional Application, requiring a newly executed oath or declaration referring to page 19 of the specification, was mailed on May 10, 2005.

The application is being referred to the Office of Initial Patent Examination for correction of the filing date to April 25, 2005, including page 19 of the specification filed on April 25, 2005, and for the mailing of a corrected filing receipt.

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

Derek L. Woods
Attorney Advisor
Office of Petitions

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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OFFICE OF PETITIONS

In re Application of	:	
Douglas Kozlay	:	
Application No. 11/084,588	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. AMK-4107-19	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed January 23, 2007. A Notice of Abandonment was mailed on August 6, 2007.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2612 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takeo Shibukawa :
Application No.: 11/084,599 :
Filed: March 18, 2005 :
Attorney Docket No.: YAMA:088 :

This is a decision on the petition, filed January 7, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 27, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2837 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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(C/O PATENT ADMINISTRATOR)
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WASHINGTON DC 20007-5118

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SEP 23 2008

In re Application of	:	
Jensen, et al.	:	
Application No. 11/084,604	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 339198-00076	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 23, 2008, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed February 4, 2008. Accordingly, this application became abandoned on May 5, 2008. A Notice of Abandonment was mailed on May 29, 2008.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85b, an acceptable statement of the unintentional nature of the delay in responding to the February 4, 2008 Notice of Allowance and Fee(s) Due, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The petition is **granted**.

This application is being forwarded to the Office of Data Management for processing into a patent.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SUITE A-331
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AUG 15 2008

In re Application of :
Hosseini :
Application No. 11/084,605 : ON PETITION
Filed: March 21, 2005 :
Attorney Docket No. PLI-1307 :

This is a decision on the petition, filed June 9, 2008 (certificate of mailing date June 5, 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 timely submit a reply within three (3) months of the mailing of the April 25, 2007 final Office action. No response being received and no extensions of time under 37 CFR 1.136(a) being obtained, this application became abandoned on July 26, 2007. A Notice of Abandonment was mailed on November 23, 2007.

Applicant has submitted an amendment in reply to the April 25, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 25, 2007 final Office action, and the petition fee of $770.00.

After the mailing of this decision the application will be forwarded to Technology Center AU 2612 for consideration of the amendment filed on June 9, 2008 (certificate of mailing date June 5, 2008).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Clark NJ 07066

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of	:	
YOUNG et al.	:	
Application No. 11/084,628	:	ON APPLICATION FOR
Filed: March 18, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. ALZ0017-01DV	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b)" filed February 1, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred forty-nine (949) days, not five hundred fifty-three (553) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges 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).

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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P.O. BOX 55874
BOSTON MA 02205

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AUG 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Yuh-Fun MAA et al.	:	
Application No. 11/084,631	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. **80903(303655)**	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 03, 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 February 04, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay. Accordingly, the reply to the restriction on January 03, 2008 is accepted as having being unintentionally delayed.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

This application is being referred to Technology Center AU 1648 for appropriate action on the concurrently filed amendment.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Jack C. CRYSTAL et al.
Application No. 11/084,642
Filed: March 18, 2005
Attorney Docket No. 339198-00075

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 23, 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 May 5, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 4, 2008. Accordingly, the date of abandonment of this application is May 5, 2008.

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

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

The full surcharge fee of $1540, rather than the requested surcharge fee of $1440, has been charged to deposit account 50-1710.

Petitioner should note that his correct Registration No. is 48,196 not 48,916.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.

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

David Bucci
Petitions Examiner
Office of Petitions

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JUN 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Kablik et al. :
Application No. 11/084,651 :
Filed: March 17, 2005 : ON PETITION
Atty Docket No. 62265 (71710) :

This is in response to the "PETITION TO GRANT FILING DATE UNDER 37 C.F.R. § 1.10(c)," filed May 3, 2005, requesting that the above-identified application be accorded a filing date of March 17, 2005, rather than the March 18, 2005 shown on their return postcard and on their Official Filing Receipt.

Petitioner maintains that the above-identified application was deposited in compliance with 37 CFR §1.10 on March 17, 2005, and thus, is entitled to a filing date of March 17, 2005. The petition reveals that the discrepancy between the date of deposit and the filing date accorded was discovered upon review of their return postcard, and the petition was filed promptly thereafter. In support thereof, petitioner submits a true copy of the Certificate of Express Mail transmitting the application, which references Express Mail mailing label No. EV492341389US, a copy of their return postcard receipt, and a true copy of the Express Mail mailing label used, No. EV492341389US.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of § 1.10(c)(1). The transmittal sheet as submitted on petition with the Express Mail No. thereon is a true copy of the transmittal of record and identifies the

correspondence previously accorded a filing date of March 18, 2005. Thus, petitioner has shown that Express Mail No. EV492341389US was placed on the correspondence prior to the original mailing date. A review of the true copy of the Express Mail mailing label further reveals that the "date-in" entered by the USPS is March 17, 2005. In addition, the Express Mail mailing label bears an official USPS date-stamp of March 17, 2005.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary.

It is noted that the "Notice of Omitted Items in a Nonprovisional Application" mailed April 25, 2005, stated that figure 9 described in the specification appeared to have been omitted. This conclusion stands. In fact, the postcard evidence submitted supports a conclusion, that only figures 1-8 were deposited on March 17, 2005, despite the reference to a figure 9 in the specification.

Prior to a decision being rendered on this petition, the Office of Initial Patent Examination corrected the filing date to March 17, 2005 (with figures 1-8 present in the application).

The application will be examined in Technology Center 1615 in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OCT 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Kirk P. Conrad, et al.	:	
Application No. 11/084,670	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. 021663-001610US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 15, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend & Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 27, 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: DAHNA PASTERMAK
ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of
Kirk P. Conrad, et al.
Application No. 11/084,670
Filed: March 18, 2005
Attorney Docket No. 1100-0027

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 20, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Robins & Pasternak has been revoked by the assignee of the patent application on May 21, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MICHAEL R. WARD
MORRISON & FOERSTER, LLP
425 MARKET STREET
SAN FRANCISCO. CA 94105-2482

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Attn: Kyle Eppele
Rockwell Collins- Intellectual Property Department
M/S 124-323
400 Collins Road NE
Cedar Rapids, IA 52498

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:
Wilcoxon	: DECISION ON PETITION
Application No. 11/084,678	:
Filed: March 17, 2005	:
Docket No.: 04CR212KE	:

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 13, 206, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed May 17, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed November 28, 2006.

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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APR 12 2010

OFFICE OF PETITIONS

DANIEL LAYDEN
4029 EBENEZER RD
MARIETTA, GA 30066

In re Application of	:	
Justin Lee Lanier	:	
Application No. 11/084,708	:	ON PETITION
Filed: March 19, 2005	:	
Attorney Docket No. None	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 14, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 July 15, 2009. A Notice of Abandonment was mailed November 6, 2009.

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office. Petitioner should note that the Power of Attorney filed April 18, 2008, was not legible. Power of Attorney was not established in this application.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 12/655,880.

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

for Bottorff

Chris Bottorff
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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON, WI 53701-1497

Mail Date: 06/02/2010

Applicant	: Robert H. Lasseter	: DECISION ON REQUEST FOR
Patent Number	: 7687937	: RECALCULATION of PATENT
Issue Date	: 03/30/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/084,737	: OF WYETH
Filed	: 03/18/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

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.: 02-06

Paper No: __

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

COPY MAILED
FEB 06 2006
OFFICE OF PETITIONS

In re Application of	:	
Goodson, et al.	:	
Application No. 11/084,738	:	ON PETITION
Filed: 27 July, 2005	:	
Attorney Docket No. 022352-001010US	:	

This is a decision on the petition filed on 14 October, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 16 March July, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 14 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 14 October, 2005, Petitioner James Heslin (Reg. No. 29,541) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventors Goodson, Elkins, Patel, Valencia, Ball, Pesotchinsky for themselves and on behalf of non-signing co-inventors Ricardo Aboytes (Mr. Aboytes), Randy J. Kesten (Mr. Kesten), Andrew K. Kramer (Mr. Kramer), Sam G. Payne (Mr. Payne) and Michael H. Rosenthal), and Petitioner makes no showing and provides no documentation supporting satisfaction of the requirement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventors Aboytes, Kesten, Kramer Payne and Rosenthal Corporation NA employee "sent the formal papers ...") or evidence that a diligent effort was made by Petitioner to identify for the transmittals accurate/valid current addresses for the non-signing inventors.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including

> the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

> **409.03(d) Proof of Unavailability or Refusal**
>
> INVENTOR CANNOT BE REACHED
>
> Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.
>
> The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.
>
> Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.
>
> The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or

> in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands is deficient as to document support for the averment of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 06-06

Paper No: __

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

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Goodson, et al. :
Application No. 11/084,738 : ON PETITION
Filed: 27 July, 2005 :
Attorney Docket No. 022352-001010US :

This is a decision on the petition filed on 27 April, 2006, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

BACKGROUND

The record indicates:

- the instant application was filed on 16 March July, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 14 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 14 October, 2005, Petitioner James Heslin (Reg. No. 29,541) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventors Goodson, Elkins, Patel, Valencia, Ball, Pesotchinsky for themselves and on behalf of non-signing co-inventors Ricardo Aboytes (Mr. Aboytes), Randy J. Kesten (Mr. Kesten), Andrew W. Kramer–misstated in the original petition as Andrew K. Kramer, but subsequently corrected–(Mr. Kramer), Sam G. Payne (Mr. Payne) and Michael H. Rosenthal), and Petitioner makes no showing and provides no documentation supporting satisfaction of

the requirement that the entire application (description, claims, abstract and drawings) was sent to non-signing co-inventors Aboytes, Kesten, Kramer Payne and Rosenthal Corporation NA employee "sent the formal papers ...") or evidence that a diligent effort was made by Petitioner to identify for the transmittals accurate/valid current addresses for the non-signing inventors, and so the petition was dismissed on 6 February, 2006;

- Petitioner now avers that all inventors have signed the oath/declaration, and submit what is averred to be a true copy thereof in support of the averment;

- thus, it now appears that the oath/declaration has been signed by all inventors.

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

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petition

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/084,765	03/18/2005	Matthew P. Potts	200406005-1	1330

7590 04/09/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
BONZO, BRYCE P

ART UNIT	PAPER NUMBER
2113	

NOTIFICATION DATE	DELIVERY MODE
04/09/2008	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.

Tomi Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 04/08/2008  KKING1
03/23/2005 SMINASS1 00000028 082025   11084765
02 FC:1111        500.00 CR
04 FC:1202         50.00 CR
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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JUN 2 9 2007

OFFICE OF PETITIONS

In re Application of	:	
COOK, Robert Lance et al.	:	
Application No. 11/084,788	:	DECISION ON PETITION
Filed: March 18, 2005	:	TO WITHDRAW
Attorney Docket No. **25791.325**	:	FROM RECORD
	:	

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 19, 2007.

The request is **NOT APPROVED**.

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

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

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **KING & SPALDING, L.L.P.**
TODD MATTINGLY
1100 LOUISIANA STREET, SUITE 4000
HOUSTON, TX 77002

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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GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK NY 10016-0601

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanley F. Schoenbach, et al.	:	
Application No. 11/084,793	:	ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 4384-008	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 22, 2009, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 7, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 2008.

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

A review of the record shows that the petitioner made a bonafied attempt to pay all the fees needed to further prosecution of this application. However, petitioner did not account for the fee increase that occurred on September 30, 2008, nor did petitioner provide an authorization to charge any additional fees as needed. In order to continue prosecution of this application petitioner must submit payment an additional $40 for the petition fee under the unintentional provision of 1.137(b) to complete the fee requirements. A courtesy copy of the current fee schedule is enclosed for petitioner's records.

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

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

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Current Fee Schedule

cc: ALOZIE N. ETUFUGH
LAW OFFICES OF ALOZIE N. ETUFUGH, PLLC
325 BROADWAY
SUITE 404
NEW YORK, NY 10007

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

GOTTLIEB RACKMAN & REISMAN PC
270 MADISON AVENUE
8TH FLOOR
NEW YORK, NY 10016-0601

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Stanley F. Schoenbach, et al.	:	
Application No. 11/084,793	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. 4384-008	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 14, 2009, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the renewed petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 7, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 8, 2008.

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

In view of the above, the petition is **GRANTED**.

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

This application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business on the reply received September 14, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Blank copy of the statement under 37 CFR 3.73(b)

cc: ALOZIE N. ETUFUGH
LAW OFFICES OF ALOZIE N. ETUFUGH, PLLC
325 BROADWAY
SUITE 404
NEW YORK, NY 10007

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/21/2010

Applicant	: Gerd Glockler	: DECISION ON REQUEST FOR
Patent Number	: 7618009	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1042** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

MAILED

NOV 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Fish et al.	:	DECISION ON PETITION
Application No. 11/084,855	:	TO WITHDRAW
Filed: March 18, 2005	:	FROM RECORD
Attorney Docket No. GATE-001/00US	:	
301031-2001		

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed October 8, 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 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 William S. Galliani on behalf of all attorneys of record who are associated with Customer No. 23419.

All attorneys/agents associated with Customer Number 23419 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the address indicated below.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: GoldenGate Software, Inc.
301 Howard Street, Suite 2100
San Francisco CA 94105

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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TOWNSEND AND TOWNSEND AND CREW LLP/ORACLE
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUL 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Eric Ian Fish, et al.	:	
Application No. 11/084,855	:	DECISION ON PETITION
Filed: March 18, 2005	:	
	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 4, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed February 4, 2010. Accordingly, the date of abandonment of this application is May 5, 2010. The Notice of Abandonment was mailed May 24, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of 1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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 Terri Johnson at (571) 272-2991.

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

Terri Johnson
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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Grete Kornerup	: DECISION ON REQUEST FOR
Patent Number	: 7648494	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,893	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **629** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MYERS BIGEL SIBLEY & SAJOVEC, P.A
PO BOX 37428
RALEIGH NC 27627

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OCT 14 2008

OFFICE OF PETITIONS

In re Application of:
VANCE, Scott L.
Application No.: 11/084,898
Filed: March 21, 2005
Attorney Docket No.: 9314-109 (040422)

DECISION APPROVING
WITHDRAWAL OF ATTORNEY

This is a decision on the Request to Withdraw as Attorney/Agent of Record under 37 CFR § 1.36, filed October 2, 2008.

The Request is **APPROVED**.

Debra K. Stephens requests that she alone be withdrawn as an attorney under 37 CFR § 1.36, pursuant to the reason set forth under 37 CFR § 10.40(b)(2), because of her current employment by the United States Patent and Trademark Office. Since the Request satisfies all of the requirements for withdrawal, it is appropriate to approve the Request and withdraw only Ms. Stephens as an attorney of record.

All future communications from the Office will continue to be directed to the above-identified correspondence address.

A courtesy copy of this decision is being mailed to Ms. Stephens at the address identified in the Request.

Telephone inquiries relating to this decision should be directed Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

Cc: Debra K. Stephens
301 Edgemore Avenue
Cary, NC 27519

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

BARLOW JOSEPHS & HOLMES
101 DYER STREET, 5TH FLOOR
PROVIDENCE, RI 02903

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MAY 1 1 2006

OFFICE OF PETITIONS

In re Application of	:	
E. Donald Morando	:	
Application No. 11/084,902	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. M048 P01156-US	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 11, 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 petition includes a declaration by E. Donald Morando attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This application is being referred to Technology Center AU 1761 for action on the merits commensurate with this decision.

Wan Laymon
Wan Laymon
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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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Brian K. Elias	: DECISION ON REQUEST FOR
Patent Number	: 7617622	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/084,912	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **844** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MAR 18 2010

OFFICE OF PETITIONS

Sealed Air Corporation
P.O. Box 464
Duncan SC 29334

In re Application of	:	
Charles KANNANKERIL	:	
Application No. 11/084,916	:	DECISION ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. D-30269-01	:	

This is a decision on the petition, filed December 22, 2009, which is being treated as a petition under 37 CFR 1.181, 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 final Office action mailed on May 6, 2009, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 7, 2009.

Petitioner states that a timely reply in the form of a Notice of Appeal under 37 CFR 41.31(a) was timely mailed on September 8, 2009, with the appropriate request for a one (1) month extension of time.

A review of the record reveals that a Notice of Appeal under 37 CFR 41.31(a) dated September 8, 2009, with the appropriate request for a one (1) month extension of time, is located in the Office's Image File Wrapper System. To be sure, the serial number of the Notice of Appeal erroneously indicates the Notice of Appeal belongs to 10/084,916; however, under MPEP 724.05 III, where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the paper (e.g., application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition. Given that the petition, filed on December 22, 2009, under 37 CFR 1.182 was unnecessary, the submitted petition fee of $400 is being refunded to Deposit Account 07-1765. Furthermore, the Notice of Appeal fee of $540 is being charged to Deposit Account 07-1765.

As such, the paper mailed on September 8, 2009, constituted a timely response to the non-final Office action mailed on May 6, 2009.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of the Notice of Appeal, i.e., September 10, 2009.

The Office apologizes for any inconvenience to petitioner.

This application is referred to Technology Center Art Unit 1794 for further processing.

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

David A. Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/2008

TO SPE OF : ART UNIT 3700 (3717)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,146,920

Attn: Lars Olson

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

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

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

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

Ok to enter changes to claim 16 as req. in C of C?

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

Thank You For Your Assistance

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

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

Comments:

3677

11/084,932

Patent No. 7,146,920
Request for Cert. of Correction dated December 12, 2007
Attorney Docket No. 1381-044654

OIPE IAP86 DEC 17 2007 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	:	7,146,920	Confirmation No. 5500
Inventor	:	Ryan et al.	
Issued	:	December 12, 2006	
Title	:	Three Dimensional Plated Deck	
Examiner	:	Lars A. Olson	
Customer No.	:	28289	

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT

Certificate
DEC 19 2007
of Correction

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

ATTENTION: Decision and Certificate of Correction
Branch of the Patent Issue Division

Sir:

In accordance with 35 U.S.C. §255, we attach hereto Form PTO/SB/44 and proof of error and request that a Certificate of Correction be issued in the above-identified patent. The following error appears in the patent as printed:

Column 9, Claim 16, Line 40, after "an arcuate portion", insert the following:
-- and a pair of spaced extensions --
(See the application as filed, page 12, Claim 19, Line 4. See also the Amendment filed April 26, 2006, page 7, Claim 19, Line 4, in response to the first Office Action and the Amendment dated August 10, 2006, pp 4-5, Claim 19, Line 2 on page 5, in response to the Final Office Action. In both of these Amendments, the missing text was inadvertently omitted when Claim 19 was re-typed. The language was in the original claim and should remain in the claim as it was not deleted by Amendment. Claim 19 issued as Claim 16.)

The above error is an obvious typographical error made by Applicants. A check for $100.00 is attached to cover the fee for correction of Applicants' mistake.

Respectfully submitted,

THE WEBB LAW FIRM

12/17/2007 ATRINH 00000042 7146920
01 FC:1811 100.00 OP

By _____

Paul M. Reznick
Registration No. 33,059
Attorney for Registrants
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818
Telephone: (412) 471-8815
Facsimile: (412) 471-4094

LF2145.DOC

PTO/SB/44 (07-07)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,146,920
APPLICATION NO.	:	11/084,932
ISSUE DATE	:	December 12, 2006
INVENTORS	:	Ryan et al.

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

Column 9, Claim 16, Line 40, after "an arcuate portion", insert the following:
-- and a pair of spaced extensions --

MAILING ADDRESS OF SENDER: The Webb Law Firm
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-2450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select Option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/084,956	03/21/2005	Yuji Uchida	09792909-6082	5660

7590 12/13/2007
SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, SEARS TOWER
CHICAGO, IL 60606-1080

EXAMINER
WILLS, MONIQUE M

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

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Adjustment date: 12/13/2007  KKING1
03/23/2005 MMEKONEN 00000053 11084956
02 FC:1111                    -500.00 OP
04 FC:1202                    -200.00 OP


Refund Ref:
12/13/2007          0030048151
----------------------------------------

Credit Card Refund Total:      $700.00

Am Exp..: XXXXXXXXXXX2000
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/084,959	03/21/2005	1615	1050	7767 P1		21	1

CONFIRMATION NO. 4649

CORRECTED FILING RECEIPT

OC000000015982654

Nalco Company
Patent & Licensing Department
1601 W. Diehl Road
Naperville, IL 60563-1198

Date Mailed: 05/10/2005

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)

Mingli Wei, Naperville, IL;
Yin Z. Hessefort, Naperville, IL;
Wayne M. Carlson, Batavia, IL;

Power of Attorney:

Thomas Breininger--29897
Margaret Brumm--33655
Michael Martin--37521

Domestic Priority data as claimed by applicant

This application is a CIP of 10/696,835 10/30/2003 PAT 6,887,400

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/084,959

Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

Title

Water-soluble polyaminoamides comprising 1,3-diimines as sunscreen agents

Preliminary Class

424

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
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Alexandria, VA 22313-1450
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MAILED
FROM DIRECTORS OFFICE

OCT 13 2005

TECHNOLOGY CENTER 3600

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

In re Application of:
Bogdan C. Maglich
Serial No. 11/084,963
Filed: March 21, 2005
For: BINOCULAR METHOD AND APPARATUS FOR STOICHIOMETRIC ANALYSIS AND IMAGING USING SUBATOMIC PARTICLE ACTIVATION

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is a decision on the petition filed March 21, 2005 under 37 CFR 1.102 (b) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section XI: Inventions for Countering Terrorism.

The petition is **DISMISSED**.

The requirements for granting special status under this section are: (A) a petition to make special; and (B) a statement explaining how the invention contributes to countering terrorism.

The petition states that "certain embodiments of the invention disclosed by the Application provide methods and apparatus for detection, identification, and spatial location of explosives, nerve agents, or other materials which could be used in terrorism, as defined by 18 USC 2331." The petition further states "certain embodiments of the invention disclosed by the Application advantageously provide non-invasive, stoichiometric analysis and imaging for screening of baggage or other freight as part of an airport security system to prevent such materials from being used by terrorists." These statements are general conclusions and do not satisfy the requirement of explaining specifically how the invention contributes to countering terrorism. No details of the invention and how it would counter terrorism are provided. The petition fails to set forth what specifically makes the embodiments capable of detection, identification, and spatial location of explosives, nerve agents, or other materials which could be

used in terrorism and specifically how the invention provides non-invasive, stoichiometric analysis and imaging for screening of baggage or other freight as part of an airport security system to prevent such materials from being used by terrorists.

MPEP 708.02 XI lists examples of types of inventions that would qualify as countering terrorism. While a grantable petition is not limited to these examples, these examples all clearly act to directly and primarily counter terrorism. The tie to countering terrorism must be sufficient to accord special status to the application.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above.

Any renewed petition should be submitted to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese

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

RAR/rjc: 8/31/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

Attn: David R. Cochran
Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

Mail Date: 06/14/2010

Applicant	: Kie Y. Ahn	: DECISION ON REQUEST FOR
Patent Number	: 7611959	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/084,968	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1065** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MARK ZOVKO
36504 28TH AVE S.
FEDERAL WAY, WA 98003

COPY MAILED

APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Gary L. Jensen, Verne Leroy :
Lindberg and Michael Sparling : DECISION REFUSING STATUS
Application No. 11/084,976 : UNDER 37 CFR 1.47(a)
Filed: March 21, 2005 :
For: METHOD OF MAKING MEMBERS WITH
A THERMAL BREAK

This is in response to the "Petition Under 37 CFR 1.47(a)," filed March 21, 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 21, 2005 without an executed oath or declaration and naming Gary L. Jensen, Verne Leroy Lindberg and Michael Sparling as joint inventors.

Petitioner has submitted $130.00 for the petition fee. However, as of November 22, 2004, the required fee has increased to $200.00 (37 CFR 1.17(g)). An additional $70.00 is required before the petition will be reviewed on the merits.

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

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

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

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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United States Patent and Trademark Office
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36504 28TH AVE S.
FEDERAL WAY, WA 98003

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JUN 07 2005

OFFICE OF PETITIONS

In re Application of
Gary L. Jensen, Verne Leroy Lindberg and
Michael Sparling
Application No. 11/084,976
Filed: March 21, 2005
Title: METHOD OF MAKING MEMBERS
WITH A THERMAL BREAK

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed May 19, 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 21, 2005 without a fully executed oath or declaration and naming Gary L. Jensen, Verne Leroy Lindberg and Michael Sparling as joint inventors.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. 115 and 116;

(3) the petition fee; and

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

Applicant lacks items (1) and (4), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

As to item (4), a statement of the inventor's last known address is missing and is required.

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

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

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

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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MARK ZOVKO
36504 28TH AVE S.
FEDERAL WAY, WA 98003

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of
Gary L. Jensen, Verne Leroy Lindberg and Michael Sparling
Application No. 11/084,976
Filed: March 21, 2005
Title: METHOD OF MAKING MEMBERS WITH A THERMAL BREAK

DECISION GRANTING PETITION UNDER 37 CFR 1.47(a)

This is in response to the "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," filed July 6, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 3600 for examination in due course.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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UNISYS CORPORATION
UNISYS WAY, MS/E8-114
BLUE BELL, PA 19424-0001

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FEB 12 2009

OFFICE OF PETITIONS

In re Application of	:	
Jane Campbell Mazzagatti	:	
Application No. 11/084,996	:	DECISION ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No. TN188B	:	

This is a decision on the petition, filed December 12, 2008, which is being treated as a petition under 37 CFR 1.181 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 12, 2008, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before September 12, 2008.

The record shows that a timely reply was electronically filed on December 12, 2008, which included the following papers: RCE with appropriate submission. Petitioner filed the amendment and RCE on December 12, 2008, which was timely filed.

The petition satisfies the above requirements of 37 CFR 1.181 Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of June 12, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2164 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.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

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Unisys Way, MS/E8-114
Blue Bell PA 19424-0001

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In re Application of	:	
Jane Campbell Mazzagatti	:	
Application No. 11/084,996	:	DECISION ON PETITION
Filed: March 18, 2005	:	
Attorney Docket No. TN188B	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2009, which will be treated as a petition to withdraw of the holding of abandonment in the above-identified application.

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

The above-identified application was held abandoned for failure to timely reply to the non-final Office action mailed May 12, 2009, which set a shortened statutory period for reply of three (3) months. A Notice of Abandonment was mailed on November 12, 2009.

Petitioner contends that the reply was in fact timely filed. A review of USPTO records confirms the submission filed on November 12, 2009 was timely.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Further, the petition under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT**.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Further, the address given on the petition differs from the new 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 matter is being referred to Technology Center AU 2164 for further examination on the merits.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Richard J. Gregson
Unisys Corporation, Mail Stop: S1-108
Blue Bell, PA 19424

07 JAN 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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The Lubrizol Corporation
Attn: Docket Clerk, Patent Dept.
29400 Lakeland Blvd.
Wickliffe, OH 44092

In re Application of:	:	
HUANG et al.	:	
U.S. Application No.: 11/085,022	:	
Filing Date: March 16, 2005	:	DECISION
Attorney's Docket No.: 3233R-01	:	
For: VISCOSITY IMPROVER COMPOSITIONS PROVIDING IMPROVED LOW TEMPERATURE CHARACTERISTICS TO LUBRICATING OIL	:	

This decision is issued in response to applicant's "Request for Correction of Filing Receipt" filed on April 28, 2005. Applicant requests that the filing receipt be corrected to indicate that the present application is a U.S. national phase application under 35 U.S.C. 371. The request has been treated as a petition under 37 CFR 1.181.

BACKGROUND

On March 23, 2004, applicant filed international application PCT/US04/08787 which claimed a priority date of March 28, 2003 (based on United States application 60/458,666) and which designated the United States. On October 14, 2004, a copy of the international application was transmitted to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

On March 16, 2005, applicant filed a "New Patent Application Transmittal" with accompanying documents. The transmittal letter referred to the submission as a "new nonprovisional patent application under 37 CFR 1.53(b)." Additionally, the transmittal letter stated, "[t]his is a 371 of PCT/US2004/008787." Further, the transmittal letter authorized a charge to Deposit Account No. 12-2275 for $1000 as the basic national fee. This is the proper fee for an application under 35 U.S.C. 371; if applicant had intended the submission to be a national stage application under 35 U.S.C. 371.

On April 14, 2005, the USPTO mailed a "Notice Regarding Benefit/Priority Claim(s)" which indicated that applicant "submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a

national stage application under 35 U.S.C. 371." Additionally, the USPTO issued a filing receipt which did not reference the international application.

On April 28, 2005, applicant filed the "Request for Correction of Filing Receipt" considered herein. This request asserts that the original March 16, 2005 submission should have been treated as a national stage application filed under 35 U.S.C. 371.

DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). See 37 CFR 1.495(g):

> The documents and fees submitted . . . must be clearly identified as a submission to enter the national stage under 35 U.S.C. 371, otherwise the submission will be considered as being made under 35 U.S.C. 111.

In addition, section 1893.03(a) of the MPEP states that:

> If there are any conflicting instructions as to whether the filing is under 35 U.S.C. 111(a) or 35 U.S.C. 371, the application will be accepted as filed under 35 U.S.C. 111(a). A conflicting instruction will be present, for example, where applicant includes in the initial submission under 35 U.S.C. 371, a "Utility Patent Application Transmittal" (Form PTO/SB/05) or includes a benefit claim under 35 U.S.C. 120 to the international application.

As noted above, applicant's original Transmittal Letter here specifically identified the accompanying submission as both a new nonprovisional application filed under 37 CFR 1.53(b) and "a 371 of PCT/US2004/008787." The transmittal letter therefore contained conflicting instructions with respect to treatment of the accompanying application materials. Accordingly, the materials filed March 16, 2005 cannot be interpreted as a clear and unambiguous request to enter the national stage under 35 U.S.C. 371. Accordingly, the submission was properly treated as a filing under 35 U.S.C. 111(a).

Applicant may wish to consider the provisions under 37 CFR 1.78(a) for claiming benefit to the international application.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

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

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration
Tel: (571) 272-3298
Fax: (571) 273-0459

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THE LUBRIZOL CORPORATION
ATTN: DOCKET CLERK, PATENT DEPT.
29400 LAKELAND BLVD.
WICKLIFFE, OH 44092

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JAN 2 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Chor Huang, et al.	:	
Application No.: 11/085,022	:	ON PETITION
Filed: March 16, 2005	:	
Attorney Docket No.: 3233R-01	:	

This is a decision on the petition, filed January 23, 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 December 4, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 1797 for further processing of the request for continued examination under 37 CFR 1.114.

/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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MAY 2 5 2007
TECHNOLOGY CENTER 2800

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

In re Application of	:	**DECISION ON REQUEST TO**
Shintaro ASUKE, *et. al.*	:	**PARTICIPATE IN PATENT**
Application No. 11085030	:	**PROSECUTION HIGHWAY**
Filed: March 18, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 9319K-001131	:	**TO MAKE SPECIAL UNDER**
For: METHOD & SYSTEM FOR EVALUATING LYOPHOBICITY OF INNER WALL OF FINE TUBE INCLUDING LYOPHOBIC FILM	:	**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 20, 2007 to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Christine Oda at 571-272-1602.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

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

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

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OCT 26 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of
Shlieout, et al.
Application No. 11/085,073
Filed: March 22, 2005
Attorney Docket No. 08062331
For: PHARMACEUTICAL COMPOSITIONS OF LIPASE-CONTAINING PRODUCTS, IN PARTICULAR OF PANCREATION

This is a decision on the petition under 37 CFR 1.137(b), filed September 15, 2009, to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Restriction Requirement, mailed January 12, 2009, which set a one month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on February 13, 2009. A Notice of Abandonment was mailed on August 4, 2009.

Applicants have submitted a proper reply to the Restriction Requirement in the form of an election with traverse, an acceptable statement of the unintentional nature of the delay in responding to the Restriction Requirement, and the $1,620.00 petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

All requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the file will be returned to Technology Center AU 1657 for consideration of the election filed on September 15, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
3000 K STREET NW, SUITE 500
WASHINGTON DC 20007

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MAY 25 2007

OFFICE OF PETITIONS

In re Application of	
BAKER, et al.	
Application No. 11/085,076	DECISION ON PETITION
Filed: March 22, 2005	TO WITHDRAW
Attorney Docket No. 077855-0112	FROM RECORD

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 8, 2006.

The request is **APPROVED**.

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

The request was signed by Glenn Law 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 January 5, 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: **MICHAEL K. BAKER**
7918 JACKSON ROAD
ALEXANDRIA, VA 22308

cc: **DONALD C. BREWSTER, JR.**
INNOVATIVE TECHNOLOGY APPLICATION, INC.
6551 LOISDALE COURT, SUITE 800
SPRINGFIELD, VA 22150

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401 9TH STREET, NW
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OFFICE OF PETITIONS

In re Application of	:	
Yamazaki et al.	:	ON PETITION
Application Number: 11/085077	:	
Filing Date: 03/22/2005	:	
Attorney Docket Number: 740756-2832	:	

This is a decision on the petition filed on March 7, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply to the non-final Office action mailed on April 3, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on January 11, 2008.

Petitioners assert that a reply was timely submitted, via facsimile, on July 3, 2007. Petitioners concede, however, that the response was sent to the wrong facsimile number of 571-273-0025, the facsimile number for the Office of Petitions, rather than the correct Central Facsimile FAX number of 571-273-8300. Petitioner further states that "It should be noted that both the facsimile cover and the response clearly indicated 'Mail Stop Amendment' thereon. Apparently, the Petitions Branch never forwarded the filed response to its proper mail stop, and, therefore, the U.S. Patent and Trademark Office never entered the receipt of the filed response."

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

(1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and

(2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the ***original*** response on the date indicated on the Certificate of Transmission (*see* 37 CFR 1.8 and MPEP 512).

The showing of record, however, is that is that petitioners did not use the correct facsimile number. Specifically, the Official Gazette notice published on July 12, 2005, states that as of July 15, 2005, the U.S. Patent and Trademark Office requires most patent related correspondence submitted by facsimile to be faxed to the Central FAX number of 571-273-8300.[1] As the reply to the non-final Office action mailed on April 3, 2007, does not fall within one of the exceptions provided for in the notice, replies must be faxed to the above-referenced number. As such, the failure of the applicants to use the correct facsimile 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.[2]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[3] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[4]

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[1] See 1296 O.G. 76 (July 12, 2005).

[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[3] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[4] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

In summary, it is the responsibility of applicants, not the USPTO, to ensure that documents transmitted by facsimile are sent to the proper facsimile number. As such, the showing of record is that the reply which petitioners attempted to file on July 3, 2007, was not filed because an improper facsimile 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.**[5]

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.

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[5] 37 CFR 1.181(f).

A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64

PTO/SB/64 (01-08)
Approved for use through 04/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

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.

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

COPY MAILED

JUL 22 2008

OFFICE OF PETITIONS

In re Application of Yamazaki et al. Application Number: 11/085077 Filing Date: 03/22/2005 Attorney Docket Number: 740756-2832	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed on May 8, 2008.

The petition is **GRANTED**.

This application became abandoned on July 4, 2007, for failure to timely submit a reply in response to the non-final Office action mailed on April 3, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply were obtained. Notice of Abandonment was mailed on January 11, 2008. The petition to withdraw the holding of abandonment filed on March 7, 2008, was dismissed on April 8, 2008.

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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(d)).

NOTICE OF IMPROPER RCE

It is noted that the petition filed on May 8, 2008, was accompanied by a Request for Continued Examination (RCE) Transmittal Form. 37 CFR 1.114(a), however, requires that prosecution be closed, however, before an RCE may be filed. As the last Office action was a non-final Office action prosecution was not closed. See 37 CFR 1.114(b). Accordingly, the RCE is improper.

MPEP 706.07(h) states, in pertinent part, that if prosecution in the application is not closed, applicant will be notified of the improper RCE and any amendment/reply will be entered. Thereafter, the application will be forwarded to the examiner for consideration of the amendment/reply under 37 CFR 1.111.

Accordingly, the reply to the Office action mailed on April 3, 2007, filed on March 7, 2008, will be treated as the required reply under 37 CFR 1.137(b)(1).

As the RCE is improper and will not be entered, the RCE fee will be refunded to counsel's deposit account, as authorized on the RCE Transmittal sheet.

The application is being referred to Technology Center Art Unit 2822 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA, ON K1P 5Y6
CANADA

Mail Date: 05/13/2010

Applicant	: David Steer	: DECISION ON REQUEST FOR
Patent Number	: 7647061	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/085,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed: 9-13-06

In re application of
Kato, et al.
Serial No. 11/085,106
Filed: March 22, 2005
For: LITHIUM ION SECONDARY BATTERY AND CHARGING METHOD THEREFOR, AND CHARGE OR CHARGE/DISCHARGE CONTROL SYSTEM FOR LITHIUM ION SECONDARY BATTERY

DECISION ON PETITION

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on January 31, 2006. An application may be granted special status provided that applicant complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested;

(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.

DECISION

Applicant has complied with the conditions set forth above.

The Petition is **Granted**.

William Krynski, SPRE
Technology Center 1700
Chemical and Materials Engineering

Bernard P. Codd
McDermott Will & Emery
600 13th Street, N.W.
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,106	03/22/2005	Kiyomi Kato	043888-0365	4866

20277 7590 06/10/2009
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

EXAMINER
MERCADO, JULIAN A

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
06/10/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mailed : JUN 10 2009

In re Application of
Kiyomi Kata et al.
Serial No. 11/085,106
Filed: March 22, 2005
For: Lithium Ion Secondary Battery And Charging Method Therefor, And Charge Or Charge/Discharge Control System For Lithium Ion Secondary Battery

DECISION ON PETITION

This is a decision on Applicants' request for supervisory review under 37 C.F.R. 1.181 to have a Reply Brief entered into the record of Appeal No. 2008-5543 (11/085,106).

On March 25, 2008, Appellants filed a Reply Brief in response to the Examiner's Answer that was mailed on January 25, 2008. Appellants have provided a copy of the Reply Brief and a copy of a stamped post card showing receipt of the Reply Brief by the USPTO on March 25, 2008. Appellants request entry and consideration of the Reply Brief.

DECISION

The petition is **GRANTED**.

The Reply brief will be considered by the Examiner of record and then forwarded to the Board of Patent Appeals and Interferences.

/Gregory L Mills/
Acting Director of Technology Center 1700
Chemical and Materials Engineering

Bernard P. Codd
McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, DC 2005-3096

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Patent No. : 7,285,407 B2
Serial No. : 11/085,185
Inventor(s) : Machida et al.
Issued : October 23, 2007
Title : **NOVEL GENES OF CELL WALL-DEGRADING ENZYMES DERIVED FROM ASPERGILLUS, AND METHOD FOR THE PRODUCTION THE ENZYMES**
Docket No. : **4600-0110PUS1 01**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request to add Assignee.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450

Alexandria, VA 22313-1450

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

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

ecw

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

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JAN 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,285,407	:	
Application No. 11/085,185	:	
Filed: March 22, 2005	:	ON PETITION
Issued: October 23, 2007	:	
Attorney Docket No. 4600-0110PUS1	:	

This is a decision on the petition filed June 1, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the third assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

Petitioner contends that "No fee is included since the mistake was due to USPTO error." Petitioner further contends that "due to insufficient space in item 3, one of the assignee's names was included at the bottom of the Form". However, 37 CFR 3.81 is applicable since the originally filed PTOL-85 Transmittal form submitted and signed by Gerald M. Murphy, Jr. on September 5, 2007 clearly shows on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee the assignees as "National Institute of Advanced Industrial Science and Technology" and "National Institute of Technology and Evaluation". There are no instructions entered by applicant in Box 3 adding an additional assignee. Applicant should have entered in Box 3 instructions such as "See third assignee below" or "Continued below".

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a

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

> request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a certificate of correction fee of $100.00 as required by 3.81(b). *See also* MPEP 1481.01.

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

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ronald R. Snider
Snider & Associates
P.O. Box 27613
Washington, D.C. 20038-7613

MAILED
FROM DIRECTORS OFFICE

JUN 19 2007

TECHNOLOGY CENTER 3600

In re Application of:
Lawrence Alan Randlett, et al.
Appl. No.: 11/085,218
Filed: March 22, 2005
For: Mining Roof Support Cylinder Corrosion Protection Apparatus

:PETITION TO INVOKE
:SUPERVISORY AUTHORITY
:UNDER 37 CFR 1.181

This is a decision on Applicant's Petition under 37 CFR 1.181 filed on February 16, 2007 to invoke supervisory authority.

The Petition is **DENIED.**

On November 17, 2006 the Examiner mailed a Final Rejection. In the Final Rejection, the Examiner rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. in view of Pollack. The Examiner also took Official Notice that mining drums having picks with copper based alloy is old and well known in the art. Petitioners then filed an After-Final amendment incorporating claim 3 into claim 1 on January 10, 2007. In the After-Final amendment the Petitioner traversed the Examiner's position that mining drums with copper based alloy is well known in the art. The Examiner mailed an Advisory Action on February 5, 2007 stating that the amendment to claim 1 raised new issues and provided a documentary evidence to support the statement of Official Notice.

Petitioner alleges that when the Examiner added the documentary evidence in the Advisory Action it was evidence that the Final Rejection was premature and that the Advisory Action should be withdrawn.

Petitioner filed an After-Final Amendment incorporating claim 3 into claim 1. The Examiner stated in the Advisory Action that the amendment raised new issues that would require further consideration. Petitioner disagrees because claim 3 was incorporated in its entirety into claim 1. However, the Examiner clearly pointed out on the continuation sheet to the Advisory Action that the new issues arise in claims 2 and 4-11 because they never depended from claim 3.

Petitioner alleges that the Examiner's response to the request for reconsideration added a new reference that had not been presented before and therefore Petitioner did not have a chance to respond to the reference. In the After Final amendment, Petitioner's requested evidence to support the Examiner's statement that "mining drums have picks with copper base alloy is old and well known in the art (notoriously conventional)". As outlined in MPEP 2144.03, the Examiner has provided one such reference as evidence that mining drums with copper based alloy picks is notoriously well know, which supports the Examiner's statement that it is notoriously conventional. Hedlum is solely used as documentary evidence to support the Examiner's position. Therefore the Examiner maintaining the finality of the final rejection was proper.

Petitioners allege that the Examiner used the Hedlum reference as a teaching that the picks are copper based alloy. The Examiner's position is that the picks are brazed using copper based alloy and a portion of the copper based alloy is exposed as seen in Fig. 9 at reference character 30. Therefore the Examiner's statement in the final rejection regarding mining drums having picks with copper based alloy is old and well known in the art is supported by the Hedlum reference. The Examiner followed the proper procedure for supplying documentary evidence to the Petitioner's traversal of the taking of Official Notice as outlined in MPEP 2144.03. The Advisory Action was the next Office action after the Petition traversed the taking of Official Notice.

Therefore providing the new reference in the Advisory Action was proper and the Advisory Action and Final Rejection will not be withdrawn.

In view of this decision, the application maintains abandonment status as set forth in the Notice of Abandonment mailed June 5, 2007.

SUMMARY: The Petition is **DENIED.**

Any questions regarding this decision should be directed to Patricia Engle at 571-272-6660.

Kathy Matecki

for Donald T. Hajec, Director
Technology Center 3600
571-272-5150

DTH/ple : 6/18/07

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STUDEBAKER & BRACKETT PC
1890 PRESTON WHITE DRIVE
SUITE 105
RESTON VA 20191

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Tadao KORANI et al.	:	
Application No. 11/085,266	:	DECISION ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. **742421-115**	:	

This is a decision on the petition, filed, December 24, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Mazda Motor Corporation, Hiroshim (JP) and Toyo Seat Co., Ltd. Osaka, (JP) and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Mazda Motor Corporation, Hiroshim (JP) and Toyo Seat Co., Ltd. Osaka, (JP) is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Docket No. 742421-115

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT application of	)	
Tadao KOTANI et al.	)	
Application No. 11/085,266	)	
Patent No 7,410,218	)	Art Unit: 3636
Issued: August 12, 2008	)	Confirmation No. 1289
Filed: March 22, 2005	)	Date: December 16, 2008
For: HEADREST-ATTACHED VEHICLE SEAT		

REQUEST TO CORRECT THE ASSIGNEE NAME UNDER 37 C.F.R. 3.81(b)

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

Sir:

In reviewing the above-identified patent, errors were discovered therein requiring correction in order to conform the Official Record in the application.

The errors noted are set forth on the attached copy of Form PTO/SB/44 in the manner required by the Commissioner's Notice.

Specifically, upon reviewing the front page of the patent, it was noted that the first assignee, "TOYO SEAT CO., LTD." is missing.

This error occurred in the preparation of the Issue Fee Transmittal Form PTOL-85B. The failure to include the first Assignee's name on the PTOL-85B was inadvertent.

Toyo Seat Co., Ltd. of Osaka, Japan is included as one of the rightful Assignee's by virtue of the assignment recorded on June 15, 2005 at Reel/Frame 016699/0252 a copy of which is attached hereto. The foregoing error occurred in preparing the form PTOL-85. The error was merely an inadvertent typographical error without any intent to deceive the U.S. Patent and Trademark Office.

The fee in the amount of $100.00; representing the requisite fee for a Certificate of Correction in accordance with 37 CFR 1.20(a) and the requisite processing fee set forth in 37 CFR 1.117(h) of $130.00 is submitted herewith.

Further, it is respectfully requested that the present file be transferred to the Certficates of Correction Branch for issuance of a Certificate of Correction upon granting of this request.

The Director is hereby authorized to charge any additional fee that may be required, or credit any overpayments, to Deposit Acct. No. 50-4525 (742421-115).

Respectfully submitted,

/Donald R. Studebaker/
Donald R. Studebaker
Registration No. 32,815

STUDEBAKER & BRACKETT PC
1890 Preston White Drive, Suite 105
Reston, VA 20191

Ph: 703-390-9051
Fax: 703-390-1277

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

OCTOBER 28, 2005

PTAS

103025950A

RECEIVED
NOV 04 2005

DONALD R. STUDEBAKER
NIXON PEABODY LLP
SUITE 900
401 9TH STREET, N.W.
WASHINGTON, D.C. 20004-2128

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 571-272-3350. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 06/15/2005

REEL/FRAME: 016699/0252
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 742421-115

ASSIGNOR:
KOTANI, TADAO

DOC DATE: 05/09/2005

ASSIGNOR:
NAKAYA, KOUICHI

DOC DATE: 05/10/2005

ASSIGNOR:
MICHIDA, NANAE

DOC DATE: 05/10/2005

ASSIGNOR:
MIYAHARA, TAMIO

DOC DATE: 05/10/2005

ASSIGNOR:
OKIYAMA, HIROSHI

DOC DATE: 05/10/2005

ASSIGNEE:
TOYO SEAT CO., LTD.
14-7, NISHITENMA 5-CHOME, KITA-KU
OSAKA-SHI, OSAKA, JAPAN

ASSIGNEE:
MAZDA MOTOR CORPORATION
3-1, SHINCHI, FUCHU-CHO
AKI-GUN, HIROSHIMA, JAPAN

SERIAL NUMBER: 11085266
PATENT NUMBER:
TITLE: HEADREST-ATTACHED VEHICLE SEAT

FILING DATE: 03/22/2005
ISSUE DATE:

SHARON BROOKS, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

06-23-2005

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Docket No. 742421-115

To the Honorable Commissioner of ... original documents or copy thereof.

103025950

OIPE JC98 JUN 15 2005 PATENT & TRADEMARK OFFICE

1. Name of conveying party(ies):

1. Tadao KOTANI
2. Kouichi NAKAYA
3. Nanae MICHIDA
4. Tamio MIYAHARA
5. Hiroshi OKIYAMA

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

2. Name and address of receiving party(ies)

Name: Toyo Seat Co., Ltd.
Street Address: 14-7, Nishitenma 5-chome, Kita-ku
City: Osaka-shi State: Osaka Zip: ____
Country: Japan Postal Code: ____

Name: Mazda Motor Corporation
Street Address: 3-1, Shinchi, Fuchu-cho
City: Aki-gun State: Hiroshima Zip: ____
Country: Japan Postal Code: ____

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other ____

Execution Date(s):

1st Inventor: May 9, 2005
2nd Inventor: May 10, 2005
3rd Inventor: May 10, 2005
4th Inventor: May 10, 2005
5th Inventor: May 10, 2005

4. Application number(s) or patent number(s); 11/085,266

If this document is being filed together with a new application, the filing date of the application is: ____

A. Patent Application No.(s)
11/085,266

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Attorney Name: Donald R. Studebaker
Firm Name: Nixon Peabody LLP
Internal Address: Suite 900
Street Address: 401 9th Street, N.W.
City: Washington State: D.C. Zip: 20004-2128

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41)..... $40.00

☐ Enclosed
☒ Authorized to be charged to deposit account

8. Deposit account number:

19-2380 (742421-115)

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Donald R. Studebaker-Reg. No. 32,815 — Name of Person Signing
Signature
June 15, 2005 — Date

Total number of pages including cover sheet, attachments, and documents: 3

Mail documents to be recorded with required cover sheet information to:
Mail Stop Assignment Recordation Services, Director of the US Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450

06/22/2005 EDUPER 00000335 192380 11085266
01 FC:8021 40.00 DA

W659811.1

PART B - FEE(S) TRANSMITTAL

Complete and mail this form, together with applicable fee(s) to: **Mail** **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax **(703) 746-4000**

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

STUDEBAKER & BRACKETT PC
1890 Preston White Drive, Suite 105
Reston, Virginia 20191

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawings, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, or being facsimile transmitted to the USPTO at _____, on _____.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,266	03/22/2005	Tadao Kotani	742421-115	1289

TITLE OF INVENTION HEADREST-ATTACHED VEHICLE SEAT

APPLN. TYPE.	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$1740	06/25/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
McPartlin, Sarah Burnham	3636	297-408000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363)

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 STUDEBAKER & BRACKETT PC
2 Donald R. Studebaker
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: MAZDA MOTOR CORPORATION

(B) RESIDENCE: (CITY & STATE OR COUNTRY): Hiroshima, JAPAN

Please check the appropriate assignee category or categories (will not be printed on the patent) ☐ individual ☒ corporation or other private group entity ☐ government

4a. The following fee(s) are enclosed:

☒ Issue Fee
☒ Publication Fee
☒ Advance Order - # of Copies 3

4b. Payment of Fee(s):

☐ A check in the amount of the fee(s) is enclosed.
☒ Payment by credit card. Form PTO-2038 is attached.
☒ The Commissioner is hereby authorized to charge the required fee(s), or credit any overpayment, to Deposit Account Number 50-4525 (enclose an extra copy of this form).

NOTE: The issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature /Donald R. Studebaker/ (Date) June 18, 2008

Typed or printed name Donald R. Studebaker, Registration No. 32,815

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,410,218

APPLICATION NO.: 11/085,266

ISSUE DATE : August 12, 2008

INVENTOR(S) : Tadao KOTANI; Kouichi NAKAYA; Nanae MICHIDA, Tamio MIYAHARA and Hiroshi OKIYAMA

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

(73) Assignee: Toyo Seat Co., Ltd., Osaka, (JP); Mazda Motor Corporation, Hiroshima (JP)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Studebaker & Brackett PC
1890 Preston White Drive, Suite 105
Reston, VA 20191

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11085266 Total Records Found: 15

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
12/24/2008	00010860	4	1464	$130.00	12/24/2008	CC
12/24/2008	00010861	4	1811	$100.00	12/24/2008	CC
06/18/2008	00009701	4	1501	$1,440.00	06/18/2008	CC
06/18/2008	00009702	4	1504	$300.00	06/18/2008	CC
06/18/2008	00009703	4	8001	$9.00	06/18/2008	CC
01/17/2008	00000742	4	1201	$420.00	01/16/2008	DA 192380
01/17/2008	00000743	4	1252	$460.00	01/16/2008	DA 192380
03/28/2007	00000118	1	1401	$500.00	03/27/2007	DA 192380
03/28/2007	00000119	1	1253	$1,020.00	03/27/2007	DA 192380
03/28/2007	00000120	1	1806	$180.00	03/27/2007	DA 192380
06/22/2005	00000341	1	8021	$40.00	06/16/2005	DA 192380
06/17/2005	00000101	1	1011	$300.00	06/15/2005	DA 192380
06/17/2005	00000102	1	1111	$500.00	06/15/2005	DA 192380
06/17/2005	00000103	1	1311	$200.00	06/15/2005	DA 192380
06/17/2005	00000104	1	1051	$130.00	06/15/2005	DA 192380

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

SMITH, GAMBRELL & RUSSELL
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of
Daisuke Takahashi, Masaaki Aihara and
Yasushi Nakoji
Application No. 11/085,272
Filed: March 22, 2005
Title: DIAGNOSTIC APPARATUS FOR
EVAPORATIVE EMISSION CONTROL
SYSTEM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed July 14, 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 22, 2005 without an executed oath or declaration and naming Daisuke Takahashi, Masaaki Aihara and Yasushi Nakoji as joint inventors.

Accordingly, on April 20, 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 July 14, 2005, the instant petition and a one (1) 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 item (1), as set forth above.

As to item (1), applicant has failed to show that the inventor cannot be reached. Applicant has stated that a copy of the application and declaration were sent to the inventor's last known address, but was returned and marked "undeliverable" and "new address unknown." However, applicant has not submitted a statement of facts that describes any diligent efforts applicant has used to locate the non-signing inventor thereafter.

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 non-signing inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the non-signing inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions. See MPEP 409.03(d).

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

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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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SMITH, GAMBRELL & RUSSELL
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of :
Daisuke Takahashi, Masaaki Aihara and :
Yasushi Nakoji :
Application No. 11/085,272 :
Filed: March 22, 2005 :
For: DIAGNOSTIC APPARATUS FOR :
EVAPORATIVE EMISSION CONTROL :
SYSTEM :

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 November 3, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor cannot be found or reached 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

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

MR. YASUSHI NAKOJI
HANAKOGANEI 5-20-3
KODAIRA-SHI
JAPAN

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NOV 09 2005

OFFICE OF PETITIONS

In re Application of
Daisuke Takahashi, Masaaki Aihara and Yasushi Nakoji
Application No. 11/085,272
Filed: March 22, 2005
For: DIAGNOSTIC APPARATUS FOR EVAPORATIVE EMISSION CONTROL SYSTEM

Dear MR. YASUSHI NAKOJI:

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

SMITH, GAMBRELL & RUSSELL
SUITE 800
1850 M STREET, N.W.
WASHINGTON, DC 20036
U.S.A.

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

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

Mail Date: 06/17/2010

Applicant	: Gen Fujii	: DECISION ON REQUEST FOR
Patent Number	: 7642038	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/085,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

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OFFICE OF PETITIONS

In re Application of	:	
Wesley Owens DUNN	:	
Application No. 11/085,277	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 36587US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 9, 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 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (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 March 3, 2007.

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

Telephone inquiries concerning this decision should be directed to Karin Reichle at (571) 272-6051.

This application is being referred to Technology Center AU 3634 for processing and for appropriate action by the Examiner in the normal course of business.

David Bucel
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

WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

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JUL 18 2008

In re Application of	:	
S. Curtis Nye, et. al.	:	
Application No. 11/085,284	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 15499.579.1	:	

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

The application became abandoned for failure to file a proper reply to the non-final Office action mailed April 3, 2007. November 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and $350 in claim fees; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3711 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGILENT TECHNOLOGIES, INC.
LEGAL DEPARTMENT, DL429
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 7599
LOVELAND, CO 80537-0599

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of :
Gray R. Trott :
Application No. 11/085,299 :
Filed: March 21, 2005 :
Attorney Docket No. 10050410-1

ON PETITION

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 2, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

HOSAIN HAKIMI
199 COOLIDGE AVE. #201
WATERTOWN, MA 02472

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JUN 20 2008
OFFICE OF PETITIONS

In re Application of 11/085,309 :
Application No. Hakimi :
Filing Date: March 21, 2005 :
For: Optical Terahertz Generator / Receiver :

Decision on Petition

This is a decision in response to the paper filed March 5, 2008, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Procedural History:

A final Office action was mailed March 14, 2007. The final Office action set a shortened statutory period for reply of three (3) months.

Petitioner filed an amendment on May 18, 2007. The amendment failed to *prima facie* place the application in condition for allowance and an Advisory Action was mailed June 11, 2007.

Petitioner never requested an extension of the three-month time period for reply set forth in the final Office action and never submitted payment for any extension of time. Therefore, the application became abandoned on June 15, 2007.

Although petitioner filed an amendment on August 30, 2007, the amendment was not accompanied by a request for a three-month extension of time or the necessary $510 payment for the extension of time.

A Notice of Abandonment was mailed December 28, 2007.

The instant petition was filed March 5, 2008. The petition asserts the examiner has improperly examined the application as a result of a lack of knowledge of the subject matter of the application.

Petitioner appears to be requesting the Office remove the abandoned status of the application and allow petitioner to continue to prosecute the application.

The paper filed March 5, 2008, will be treated as a petition under 37 CFR 1.181.

When an application is held abandoned, and one wishes to pursue prosecution of the application, one must:

(1) File a petition under 37 CFR 1.181 proving the case is not actually abandoned, or
(2) File a petition under 37 CFR 1.137 to revive the application.

A petition fee is not required when filing a petition under 37 CFR 1.181. A petition fee is required when filing a petition under 37 CFR 1.137. Petitioner did not submit a petition fee. Therefore, the petition will be treated solely as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

Petitioner has not proven the application is not abandoned.

In order for petitioner to prove the application is not abandoned, petitioner would need to prove a timely and proper reply was filed in response to the final Office action.

The reply filed August 30, 2007, did not include a request for an extension of time and is clearly untimely. Therefore, the application is abandoned unless the reply filed May 18, 2007, was a proper reply to the final Office action.

The May 18, 2007 amendment was not a proper reply to the final Office action unless it *prima facie* placed the application in condition for allowance. Petitioner does not contend the May 18, 2007 amendment was a proper reply to the final Office action. A review of the amendment fails to indicate the amendment *prima facie* placed the application in condition for allowance. Therefore, the amendment filed May 18, 2007, was improper.

Since a timely and proper reply was not filed in response to the March 14, 2007 final Office action, the application was properly held to be abandoned.

Petitioner may wish to file a petition under 37 CFR 1.137(b).

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by a proper reply to the outstanding final Office action, the required petition fee of $770, 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.

A copy of a blank petition under 37 CFR 1.137(b) form is enclosed for petitioner's convenience. A PDF "fillable" version of the form can be found at:
http://www.uspto.gov/web/forms/sb0064_fill.pdf.

If a petition under 37 CFR 1.137(b) is filed, it should be addressed as follows:

If sent by fax: (571) 273-8300
Attn: Office of Petitions

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

Petitioner should note, any reply filed a petition under 37 CFR 1.137 must be one of the following in order to be proper:

(1) an amendment which *prima facie* places the case in condition for allowance,
(2) a Notice of Appeal and the required fee,
(3) a RCE, or
(4) a continuation application.

As to option (1), applicant does not have a "right" to amend any finally rejected claims, add new claims after a final rejection, or reinstate previously canceled claims. However, the Office will normally consider an amendment a proper reply to an Office action if it *prima facie* ("on its face") places the application in condition for allowance. In other words, the amendment must merely cancel claims which have been rejected, adopt examiner suggestions, or in some other way require only a cursory/brief review by the examiner. If an amendment requires further searching by an examiner, it will generally not be accepted. An example of an acceptable amendment:

a. Examiner files final rejection which states, "Claim #2 is rejected, however if the word 'plural' were deleted then the claim would be acceptable."
b. An amendment is filed which deletes the word "plural"
c. The amendment on its face is allowable, no further work by the examiner is required. ,

The above is only an example.

As to option (2), petitioner may file a Notice of Appeal (and fee). This option will be further discussed later in this decision.

As to option (3), a Request for Continued Examination (RCE) can be filed. A RCE is basically a request to continue prosecution of the application. A "submission" (usually in the form of an amendment) and the RCE fee must be submitted with the RCE. Petitioner may request that the amendments filed on May 15, 2007 and/or August 30, 2007, be considered as the submission or may request the prior amendments filed on May 15, 2007, and August 30, 2007, not be entered and file a new amendment. Once the application is revived, the RCE will require the examiner to examine the amendment(s) forming the submission. Any amendment filed with a RCE does NOT have to *prima facie* place the application in condition for allowance in order for the amendment to be considered on the merits. If the amendment requires additional work or research by the examiner, then the work and research will be done. Unlike "an amendment after final" where the applicant does not have the "right" to file an amendment, an applicant does have such a right when the amendment is filed with a RCE. To file a RCE requires an additional fee of $405 (for a small entity). A copy of a form that can be used is included for petitioner's convenience.

As to (4), a continuation application under 37 CFR 1.53(b) may be filed.

The filing of an appeal is the proper method to obtain review of the substantive by a third party of the merits of an examiner's actions.

The Office of Petitions lacks the jurisdiction to review the substantive merit of the examiner's actions.

Petitioner may obtain review of the substantive merit of the examiner's action by appealing to the Board of Patent Appeals and Interferences.

A Notice of Appeal form and a Pre-Appeal Request for Review form are attached. If a Notice of Appeal is filed, the Notice must be submitted with the fee of $255.

Prior to filing a Notice of Appeal, the Office strongly suggests petitioner review the following matters:

(1) Chapter 1200 of the Manual of Patent Examining Policy and Procedure which can be found at "http://www.uspto.gov/web/offices/pac/mpep/mpep.htm",
(2) An Office gazette Notice that can be found at "http://www.uspto.gov/web/offices/com/sol/og/2005/week28/patbref.htm", and
(3) A Federal Register notice that can be found at "http://www.uspto.gov/web/offices/com/sol/notices/72fr41472.pdf".

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

Attachments: Petition under 37 CFR 1.137(b) form (Form PTO/SB/64)
RCE form (Form PTO/SB/30)
Notice of Appeal form (Form PTO/SB/31)
Pre-Appeal Brief Request form (Form PTO/SB/33)
Privacy Act Notice

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

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

PTO/SB/30 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114 Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

   a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

      i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

      ii. ☐ Other _____

   b. ☐ Enclosed

      i. ☐ Amendment/Reply

      ii. ☐ Affidavit(s)/ Declaration(s)

      iii. ☐ Information Disclosure Statement (IDS)

      iv. ☐ Other _____

2. Miscellaneous

   a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

   b. ☐ Other _____

3. Fees The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

   a. ☐ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____. I have enclosed a duplicate copy of this sheet.

      i. ☐ RCE fee required under 37 CFR 1.17(e)

      ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

      iii. ☐ Other _____

   b. ☐ Check in the amount of $ _____ enclosed

   c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	
Name (Print/Type)		Registration No.	

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)		Date	

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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.

Instruction Sheet for RCEs

(not to be submitted to the USPTO)

NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

Filing Qualifications:
The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

Filing Requirements:
Prosecution in the application must be closed. Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

A submission and a fee are required at the time the RCE is filed. If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

WARNINGS:

Request for Suspension of Action:
All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

Improper RCE will NOT toll Any Time Period:

Before Appeal - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

Under Appeal - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.

PTO/SB/31 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

Docket Number (Optional)

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]
on _____

Signature_____

Typed or printed name _____

In re Application of	
Application Number	Filed
For	
Art Unit	Examiner

Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1)) $_____

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: $_____

☐ A check in the amount of the fee is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. _____ . I have enclosed a duplicate copy of this sheet.

☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____

_____
Signature

_____
Typed or printed name

_____
Telephone number

_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 41.31. 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, 1.14 and 41.6. 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.

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on _____

Signature _____

Typed or printed name _____

Application Number	Filed
First Named Inventor	
Art Unit	Examiner

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☐ attorney or agent of record.
Registration number _____

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

_____
Signature

_____
Typed or printed name

_____
Telephone number

_____
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. 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, 1.14 and 41.6. 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 AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

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AUG 10 2007

OFFICE OF PETITIONS

In re Patent No. 11/085314	:	
Issue Date: 11/21/2006	:	
Application No. 11/085314	:	NOTICE
Filed: 03/21/2005	:	
Attorney Docket No. 2035.017A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on 7 June, 2007.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 91903-3508

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Rangarajan Sampath et al.	:	
Application No. 11/085,320	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. IBIS0073-100 (DBIS-0056US1)	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 26, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on January 3, 2006 and resubmitted on March 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: IBIS Biosciences, Inc.
1896 Rutherford Road
Carlsbad CA 92008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/2007

TO SPE OF : ART UNIT 2800 (2823)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,160,781

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

Please complete this form and return with file ***(PFW)**, within **7** days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward ***(IFW)** to scanning using document code **COCX**.

***Ok to enter dep. Change to claim 4, "2" to --20-- as req. in COCIN?**

Thank You For Your Assistance

Ernest C. White, LIE (703) 308-9390x122
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:

The changes to column 5 are approved. The change to the dependency of claim 4 is approved in light of the fact that it is a duplicate of claim 5. Claim 5 (original claim 24) was meant to be dependent on claim 20 (original). This corrects that situation

[signature] 2823

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/2007

TO SPE OF : ART UNIT 2800 (2823)

SUBJECT : Request for Certificate of Correction on Patent No.: 7,160,781

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

Please complete this form and return with file *(PFW), within 7 days to:
Certificates of Correction Branch – 2900 South Tower ste.9A43A
Palm location **7580** or forward *(IFW) to scanning using document code **COCX**.

***Ok to enter dep. Change to claim 4, "2" to --20-- as req. in COCIN?**

Ernest C. White, LIE (703) 308-9390x122

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.

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

Comments:

Jack Chiang

JACK CHIANG
SUPERVISORY PATENT EXAMINER

2823

SPE — Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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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MCKEE, VOORHEES & SEASE, PLC
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

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APR 15 2008

OFFICE OF PETITIONS

In re Application of :
William P. Ried :
Application No. 11/085,340 : DECISION ON PETITION
Filed: March 21, 2005 : TO WITHDRAW
Attorney Docket No. P06954US01 : FROM RECORD

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 25, 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 November 2, 2007.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: WILLIAM P. RIED
23212 W. 36RD STREET
PAOLA, KS 66071

PAGE 1/1 * RCVD AT 5/15/2007 2:04:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:2736842 * CSID: * DURATION (mm-ss):00-42

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/24/07

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/085,357 Patent No.: 7175148

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Carl D. Friedman
Supervisory Patent Examiner
Group 3600

_____ 3632
SPE **Art Unit**

MAY-05-2004 09:06 From: To:USPTO P.1/1

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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MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

Mail Date: 04/21/2010

Applicant	: Leo M. Pedlow JR.	: DECISION ON REQUEST FOR
Patent Number	: 7644424	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,369	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1168** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DIW Aug-07

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P.O Box 270110
HOUSTON TX 77277-0110

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AUG 22 2007

OFFICE OF PETITIONS

In re Application of Corbett et al. Application Number: 11/085381 Filing Date: 03/21/2005 Attorney Docket Number: 304-39557-US	: : : : : :	DECISION ON PETITION

This is a decision on the petition filed on 29 June, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 22 June, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 21 March, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 11 July, 2007.

---

[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)).

Receipt of the issue and publication fees is acknowledged.

This application is being referred to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

MAILED

APR 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Harry Duke	:	
Application No. 11/085,388	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 1639.004US1	:	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 February 18, 2010.

The request is **APPROVED**.

The request was signed by Bradley A. Forrest on behalf of all the practitioners of record and the practitioners associated with Customer Number 21186.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to assignee IBGC Corporation at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: IBGC Corporation
c/o Marlies Duke
34 Gentry Drive
Englewood, NJ 07631

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
11/085,388	03/21/2005	Harry Duke	1639.004US1

CONFIRMATION NO. 4256

POWER OF ATTORNEY NOTICE

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

OC000000041192709

Date Mailed: 04/20/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/18/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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
11/085,388	03/21/2005	Harry Duke	1639.004US1

CONFIRMATION NO. 4256

POA ACCEPTANCE LETTER

IBGC Corporation
c/o Marlies Duke
34 Gentry Drive
Englewood, NJ 07631

OC000000041192710

Date Mailed: 04/20/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/18/2010.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/05/09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11085397 Patent No.: 7341651 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Alex Nagurska 3/17/2009

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/05/09

TO SPE OF : ART UNIT 1795

SUBJECT : Request for Certificate of Correction for Appl. No.: 11085397 Patent No.: 7341651 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Alex Nagurevka 3/17/2009

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www.uspto.gov

SCHUMANN, MUILLER & LARSON
P.O. BOX 2902-0902
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Hiroaki Irie et al	:	
Application No. 11/085,398	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 10873.642USD4	:	

This is a decision on the petition, filed January 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 9, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2653 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : January 17, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hiroaki Irie et al
Application No. :11/085,398
Filed :March 21, 2005

The above-identified application has been assigned Patent No. 6,992,970 and an issue date of January 31, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of January 31, 2006:

"All reference to Patent No. 6,992,970 to Hiroaki Irie et al of Japan for OPTICAL RECORDING MEDIUM AND RECORDING METHOD FOR THE SAME appearing in the Official Gazette of January 31, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89
Tamara Greene, ST-8C13

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OFFICE OF PETITIONS

Howard J. Greenwald P.C.
70 Linden Oaks, Third Floor
Rochester, NY 14625

In re Application of	:	
Xingwu Wang	:	
Application No. 11/085,415	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. XW-808	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Howard Greenwald and all attorneys/agents of record has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: CURATOLO SIDOTI CO., LPA
24500 CENTER RIDGE ROAD, SUITE 280
CLEVELAND OH 44145

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Applied Materials, Inc.
Legal Dept M/S 2061
P.O. Box 450A
Santa Clara, CA 95052

Mail Date: 04/21/2010

Applicant	: Francimar Schmitt	: DECISION ON REQUEST FOR
Patent Number	: 7611996	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,416	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **795** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : November 9, 2009

TO SPE OF : ART UNIT 2113 - SPE Robert W. Beausoliel, Jr.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/085,421 Patent No.: 7,412,619 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should COCIN dated 11-05-2009 containing Drawings consisting of FIGS. 1-9 be approved?

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Robert Beausoliel/

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DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

Mail Date: 04/21/2010

Applicant	: Dan R. Nelson	: DECISION ON REQUEST FOR
Patent Number	: 7606169	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,427	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **827** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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(F/K/A WORKMAN NYDEGGER & SEELEY)
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1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Tatum, et al.	:	
Application No. 11/085,434	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 15436.624.1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed September 22, 2006.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed February 23, 2006. This Office action set a shortened period for reply of one (1) month. No reply having been received, the application became abandoned on March 24, 2006. A Notice of Abandonment was mailed on September 15, 2006.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a postcard receipt dated March 20, 2006, identifying the above application and itemizing "Response to Restriction Requirement (2 pgs)".

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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2874 for consideration of the Response to Restriction Requirement, filed March 20, 2006 (copy supplied on petition).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of
Mantyla, McKee, Parkinson and Broeders
Application No. 11/085,435
Filed: February 21, 2005
Attorney Docket No. 669-127

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on July 21, 2005 (certificate of mailing dated July 19, 2005). Petitioner obtained an extension of time for response within the first month. Accordingly, the petition is timely filed.

The petition is granted.

Petitioner showed that Nicholas Broeders, the non-signing inventor, refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the declaration of facts of Attorney John S. Sopko established that he mailed a copy of the application as filed, a Combined Declaration and Power of Attorney, and an assignment to the non-signing inventor at his last known address via Federal Express. Mr. Sopko asserted that during a telephone conversation with Mr. Broeders, the inventor stated that he refused to sign the Combined Declaration and Power of Attorney and the assignment document.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

Petitioner paid a $130.00 petition fee; however, the current petition fee is $400.00. Thus, the Office will charge petitioner's Deposit Account the amount due of $70.00, as authorized.

The matter is being referred to Technology Center Art Unit 3637 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHERSKOV & FLAYNIK
SUITE 1447
20 N. WACKER DR.
CHICAGO IL 60606

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Kozak, Ira M.	:	
Application No. 11/085,437	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 0052/01133 CIP2	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a continuing application; (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.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/805,565.

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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James L. Young
Westman, Champlin & Kelly, P.A.
Suite 1400 - International Centre
900 Second Avenue South
Minneapolis, MN 55402-3319

Mail Date: 04/21/2010

Applicant	: Mark W. Bergman	: DECISION ON REQUEST FOR
Patent Number	: 7644835	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,457	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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MAR 24 2008

In re Application of	:	
Nozawa et al.	:	DECISION ON PETITION TO
Application Number: 11/085477	:	WITHDRAW HOLDING OF
Filing Date: 03/21/2005	:	ABANDONMENT
Attorney Docket Number: 4041J-000969	:	

This is a decision on the petition filed on Febrary 15, 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 respond to the non-final Office action mailed on June 20, 2007. Notice of Abandonment was mailed on February 1, 2008.

In the petition, applicants assert that the practitioner did not receive the non-final Office action. Specifically, the practitioner asserts that the non-final Office action was returned to the USPTO as undeliverable.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office 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 non-final Office action may have been lost after receipt rather than a conclusion that the non-final Office action was lost in the mail.

A review of the record indicates that the USPTO mailed the non-final Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on June 29, 2007. For this reason, the practitioner did not receive the non-final Office action of June 20, 2007.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, there was no abandonment in fact.

As such, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to Technology Center 3664 technical support staff for remailing of the non-final Office action mailed on June 20, 2007. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. Any other questions regarding the status of the application or the examination process should be directed to the Technology Center.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

02-19-08

DAC/ IFW

IAP17
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PATENT & TRADEMARK OFFICE

PTO/SB/21 (01-08)
Approved for use through 1/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	11/085,477
Filing Date	03/21/2005
First Named Inventor	Toyohito Nozawa, et al.
Art Unit	3664
Examiner Name	Dalena Tran
Total Number of Pages in This Submission	Attorney Docket Number: 4041J-000969

ENCLOSURES *(check all that apply)*

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☒ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____
- ☐ After Allowance Communication to Technology Center (TC)
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:

  Copy of Notice of Abanonment; Copy of Image File Wrapper; Copy of Returned Non-Final Office Action dated 06/20/07; and, Return Receipt Postcard

Remarks The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Harness, Dickey & Pierce, P.L.C.		
Signature			
Printed name	Michael J. Schmidt		
Date	February 15, 2008	Reg. No.	34,007

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Michael J. Schmidt	Express Mail Label No.	EM 184 986 870 US (2/15/2008)
Signature		Date	February 15, 2008

This collection of information is required by 37 CFR 1.5. 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 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.

EM 184 986 870 US

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FEB 15 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	11/085,477
Filing Date:	03/21/2005
Applicant:	Toyohito Nozawa, et al.
Group Art Unit:	3664
Examiner:	Dalena Tran
Title:	VEHICLE CONTROL DEVICE
Confirmation No.:	4677
Attorney Docket:	4041J-000969

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Dear Sir:

In response to the Notice of Abandonment mailed February 1, 2008, Paper No. 20080130, Applicants respectfully petition for withdrawal of the holding of abandonment.

This application was abandoned because of Applicants' failure to timely file a reply to the Office letter mailed June 20, 2007. Applicants did not receive the June 20, 2007 Office letter and was therefore unaware that an Office Action was pending.

In order to show non-receipt of the June 20, 2007 Office Action, enclosed is a copy from the USPTO's PAIR system of the file wrapper for the present application. The file wrapper indicates the mailing of a Non-Final Rejection on June 20, 2007 and

the subsequent miscellaneous incoming letter on June 29, 2007. The "miscellaneous incoming letter" is the June 20, 2007 Office Action being returned to the USPTO (copy attached with USPTO date stamp).

Thus, it is clear that Applicants never received the Non-Final Office Action since it was returned to the USPTO. Applicants have reviewed the mailing address on the first page of the Office Action and confirm that the address on the document is correct and it is the same as the address on the Notice of Abandonment which we did receive.

Applicants request withdrawal of the abandonment and a re-mailing of the Office Action.

Respectfully submitted,

Dated: February 15, 2008

By: _____
Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

MJS/pmg

M.L

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE IAP17
FEB 15 2008
PATENT & 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.
11/085,477	03/21/2005	Toyohito Nozawa	4041J-000969	4677

27572 7590 02/01/2008
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
TRAN, DALENA

ART UNIT	PAPER NUMBER
3664	

MAIL DATE	DELIVERY MODE
02/01/2008	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.

OIPE IAP17
FEB 15 2008
PATENT & TRADEMARK OFFICE

Notice of Abandonment	Application No.	Applicant(s)	
	11/085,477	NOZAWA ET AL.	
	Examiner	Art Unit	
	Dalena Tran	3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on *6/20/07*.
   (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
   (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
   (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
   (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
   (d) ☐ No reply has been received.

2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
   (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
   (b) ☐ The submitted fee of $_____ is insufficient. A balance of $_____ is due.
   The issue fee required by 37 CFR 1.18 is $_____. The publication fee, if required by 37 CFR 1.18(d), is $_____.
   (c) ☐ The issue fee and publication fee, if applicable, has not been received.

3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
   (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
   (b) ☐ No corrected drawings have been received.

4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.

7. ☐ The reason(s) below:

Dalena Tran

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

OIPE IAP17
FEB 15 2008
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11085477	3/21/05	NOZAWA ET AL.	4041J-000969

EXAMINER
Dalena Tran

ART UNIT	PAPER
3664	20080130

DATE MAILED:

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

OIPE FEB 15 2008 PATENT & TRADEMARK OFFICE

11/085,477 Vehicle control device 02-14-2008::16:24:59

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click Start Download.

Available Documents

Mail Room Date	Document Code	Document Description	Document Category	Page Count
02-01-2008	**ABN**	**Abandonment**	**PROSECUTION**	**3**
12-17-2007	IDS.LET	Information Disclosure Statement Letter	PROSECUTION	5
12-17-2007	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	1
12-17-2007	FOR	Foreign Reference	PRIOR ART	6
12-17-2007	NPL	NPL Documents	PRIOR ART	6
12-17-2007	NPL	NPL Documents	PRIOR ART	4
09-26-2007	IDS.LET	Information Disclosure Statement Letter	PROSECUTION	5
09-26-2007	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	1
09-26-2007	NPL	NPL Documents	PRIOR ART	5
06-29-2007	LET.	Miscellaneous Incoming Letter	PROSECUTION	8
06-20-2007	CTNF	Non-Final Rejection	PROSECUTION	7
06-20-2007	892	List of references cited by examiner	PRIOR ART	1
06-20-2007	FWCLM	Index of Claims	PROSECUTION	1
06-20-2007	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
05-17-2007	SRNT	Examiner's search strategy and results	PROSECUTION	3
03-16-2007	A...	Amendment - After Non-Final Rejection	PROSECUTION	2
03-16-2007	CLM	Claims	PROSECUTION	5
03-16-2007	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	4
03-16-2007	TRTC	Transmittal to TC	PROSECUTION	1
03-15-2007	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
11-29-2006	LET.	Miscellaneous Incoming Letter	PROSECUTION	1
11-16-2006	CTNF	Non-Final Rejection	PROSECUTION	7
11-16-2006	1449	List of References cited by applicant and considered by examiner	PRIOR ART	1
11-16-2006	892	List of references cited by examiner	PRIOR ART	1
11-16-2006	FWCLM	Index of Claims	PROSECUTION	1
11-16-2006	SRFW	Search information including classification, databases and other search related notes	PROSECUTION	1
11-16-2006	BIB	Bibliographic Data Sheet	PROSECUTION	1
10-04-2006	SRNT	Examiner's search strategy and results	PROSECUTION	4
09-12-2005	LET.	Miscellaneous Incoming Letter	PROSECUTION	1
03-21-2005	TRNA	Transmittal of New Application	PROSECUTION	2
03-21-2005	136A	Authorization for Extension of Time all replies	PROSECUTION	2
03-21-2005	SPEC	Specification	PROSECUTION	14
03-21-2005	CLM	Claims	PROSECUTION	5
03-21-2005	ABST	Abstract	PROSECUTION	1
03-21-2005	DRW	Drawings-only black and white line drawings	PROSECUTION	4
03-21-2005	OATH	Oath or Declaration filed	PROSECUTION	4
03-21-2005	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
03-21-2005	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
03-21-2005	ADS	Application Data Sheet	PROSECUTION	2
03-21-2005	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	6
03-21-2005	FOR	Foreign Reference	PRIOR ART	8
03-21-2005	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	16

03-21-2005	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1

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OIPE IAP22 JUN 2 9 2007 PATENT & TRADEMARK OFFICE
CANCELLED
OIPE IAP39 FEB 1 5 2008 PATENT & TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,477	03/21/2005	Toyohito Nozawa	4041J-000969	4677

27572 7590 06/20/2007
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
TRAN, DALENA

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
06/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

OIPE IAP39
FEB 1 5 2008
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11085477	3/21/05	NOZAWA ET AL.	4041J-000969

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER
Dalena Tran

ART UNIT	PAPER
3661	20070609

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary	Application No.	Applicant(s)	
	11/085,477	NOZAWA ET AL.	
	Examiner	Art Unit	
	Dalena Tran	3661	

OIPE IAP38 FEB 15 2008 PATENT & TRADEMARK OFFICE

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 March 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to the amendment filed on 3/16/07. As per request, claims 1, 7-8, and 14-15 have been amended. Claims 1-15 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 7-10, 12, and 14-15, is rejected under 35 U.S.C.102(b) as being anticipated by Yamashita et al. (6195157).

As per claims 1, 7-8, and 14-15, Yamashita et al. disclose a vehicle control device that is provided in a vehicle and executes a vehicle control, the vehicle control device comprising: an optical measurement device installed in the vehicle for detecting a measurement object to measure data pertinent to the measurement device (see column 3, lines 14-52), detecting a speed of the vehicle (see column 3, lines 53-60), detects a decrease in a measurement capability of the optical measurement device (see columns 3-5, lines 61-34), and restricts the vehicle control, which uses data measured by the optical measurement device, based on the detected speed when the decrease in a measurement capability is detected (see columns 5-6, lines 35-43).

As per claims 2, and 9, Yamashita et al. disclose wherein the capability detecting means detects the decrease, which derives from the optical measurement device itself, in the measurement capability of the optical measurement device (see columns 5-6, lines 35-43).

As per claims 3, and 10, Yamashita et al. disclose wherein the capability detecting means detects the decrease, which derives from an external reason other than the optical measurement device itself, in the measurement capability of the optical measurement device (see columns 5-6, lines 35-43).

As per claims 5, and 12, Yamashita et al. disclose wherein, in a case that the measurable distance is a first threshold value or below, wherein the first threshold value is lower than the given threshold value, the vehicle control using the measured data is prohibited regardless of the detected speed (see columns 4-5, lines 43-34).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 4, 6, 11, and 13, are rejected under 35 U.S.C.103(a) as being unpatentable over Yamashita et al. (6195157) in view of Nada (6757599).

As per claims 4, and 11, Yamashita et al. do not disclose a measurable distance. However, Nada discloses wherein, in a case that a measurable distance is a given threshold value or below, the vehicle control using the measured data is prohibited based on the detected speed when the detected speed is a given speed or more (see columns 2-3, lines 42-38; and columns 10-11, lines 60-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teach of Yamashita et al. by combining a measurable distance for evaluating vehicle speed signal in detection of sensor signal.

As per claims 6, and 13, Yamashita et al. do not disclose wherein an acceleration of the vehicle is restricted when the decrease in the measurement capability is detected. However, Nada discloses wherein an acceleration of the vehicle is restricted when the decrease in the measurement capability is detected (see columns 2-3, lines 42-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teach of Yamashita et al. by combining wherein an acceleration of the vehicle is restricted when the decrease in the measurement capability is detected to provide vehicle safety.

Remarks

6. Applicant's argument filed on 3/16/07 has been fully considered. Upon updated search, the new ground of rejection has been set forth as above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalena Tran whose telephone number is 571-272-6968. The examiner can normally be reached on M-F 6:30 AM-4:00 PM), off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 571-272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner
Dalena Tran
June 9, 2007

Notice of References Cited	Application/Control No. 11/085,477	Applicant(s)/Patent Under Reexamination NOZAWA ET AL.	
	Examiner Dalena Tran	Art Unit 3661	Page 1 of 1

OIPE IAP26 FEB 1 5 2008 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,195,157	02-2001	Yamashita et al.	356/4.01
*	B	US-6,757,599	06-2004	Nada, Mitsuhiro	701/29
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 11, 2007

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction for Appl. No. 11/085478 patent no.7141112

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The original oath does not support the change to the title page. The amendment of 3/27/06 deletes the reference to the provisional, so the change on column 1 is also not entered.

LA LORENDO
SUPERVISORY PATENT EXAMINER
SPE

1755
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/ 44 (08-00)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO : 7,141,112 Page 1 of 1
DATED : June 18, 2007
INVENTOR(S) : Douglas C. Comrie

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page, Related US Application Data, after "No. 6,869,473" insert: --which claims benefit of United States provisional application No. 60/444,274 filed 1/31/2003--

Col. 1, line 10, after "entirety" insert: --which claims benefit of United States provisional application No. 60/444,274 filed 1/31/2003--

Col. 9, line 53, "25%" should be --50%--

Col. 9, line 54, "5%" should be --10%--

Col. 9, line 54, "20%" should be --40%--

Col. 9, line 55, "60^ " should be --60%--

Col. 12, line 50, "MIX A" should be --MIX "A" --

Col. 12, line 63, "2%" should be --20%--.

PATENT NO. 7,141,112

MAILING ADDRESS OF SENDER:
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

No. of additional copies

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

JUN 2 1 2007

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CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 06/10/2010

Applicant	: Keith M. Tanner	: DECISION ON REQUEST FOR
Patent Number	: 7628019	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/085,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1221** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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1950 ROLAND CLARKE PLACE
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COPY MAILED
MAR 04 2010

In re Application of	:	
Teruo Ouchi	:	
Application No. 11/085,512	:	DECISION GRANTING PETITION
Filed: March 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P26396	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, March 3, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 26, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3739 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,513	03/22/2005	Melchor Daumal Castellon	001058-00027	5879

27557 7590 09/24/2008
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

EXAMINER
KENNEDY, JOSHUA T

ART UNIT	PAPER NUMBER
3679	

MAIL DATE	DELIVERY MODE
09/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

SEP 2 4 2008

TECHNOLOGY CENTER 3600

Tara L. Laster
BLANK ROME LLP
600 New Hampshire Avenue, N.W.
Washington, DC 20037

In re Application of
Melchor Daumal Castellon
Application No. 11/085,513
Filed: March 22, 2005
Attorney Docket No.: 001058-00027
For: MOUNTING ASSEMBLY FOR DRIVE SHAFTS IN UNIVERSAL JOINT YOKES

DECISION ON PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37 CFR 1.181

This is in response to appellant's petition, filed May 1, 2008, requesting supervisory review under 37 CFR 1.181 of the examiner's refusal to enter the reply brief filed April 10, 2008. The petition further requests that such reply brief be entered.

The petition is **DENIED**.

At the outset, under 37 CFR 41.41(a)(1) and 37 CFR 41.43(b) appellant may file a reply brief as a matter of right within two months from the mailing date of the examiner's answer or supplemental examiner's answer. This means that appellant may file a reply brief irrespective of whether or not the examiner's answer allegedly raises any new issues. However, 37 CFR 41.41(a)(2) is clear that a reply brief shall not include any new evidence. MPEP 1208 states that a reply brief must comply with the requirements of 37 CFR 41.41 and clearly states that new or non-admitted affidavits, and/or other evidence are not permitted in a reply brief.

A review of the record reveals that the examiner refused entry of the appellant's reply brief because the reply brief included new evidence (see Exhibit A of the reply brief) in the form of a copy of a dictionary definition.

Appellant, in the petition, alleges that no new evidence was submitted because the reply brief was responding directly to new statements of rejection by the examiner and the citation of case law set forth in the Examiner's Answer mailed February 11, 2008. It appears from this allegation that appellant is confusing "new evidence" with "new issues". The terminology "new evidence" means that the evidence in question was not previously submitted and entered into the file by the examiner while "new issues" means issues that are being raised for the first time. Irrespective of whether or not the examiner's response in the Examiner's Answer constitutes "new issues", a reply brief may not include any new evidence. See 37 CFR 41.41(a)(2). Further,

appellant should review 37 CFR 41.33 for guidance as to when evidence can be entered after the filing of a Notice of Appeal.

Further with respect to appellant's allegation that no new evidence was submitted, it is noted that nowhere in the petition does appellant state when the evidence found in Exhibit A was previously submitted and entered by the examiner. Further, review of the record reveals that the evidence found in Exhibit A of the reply brief was never previously submitted and thus was never entered by the examiner into the file. Instead, appellant has submitted this evidence for the first time in the reply brief. Accordingly, by definition, this evidence constitutes new evidence and is not permissible in accordance with 37 CFR 41.41(a)(2).

With respect to appellant's allegations that the evidence, in effect, was "necessitated" by the examiner's actions in the answer, it is pointed out that even assuming those allegations to be true, it does not create an exception that permits the inclusion of new evidence in a reply brief or otherwise justify the inclusion of new evidence in a reply brief.

Moreover, it does not appear from the record that appellant's allegations of new issues being raised by the examiner are correct. In particular, it is noted that appellant acknowledges the examiner's interpretation of "bolt" in his brief. For example, see pages 8-9. Further, on page 2, line 12, of the petition appellant acknowledges that the examiner "had previously indicated a broad interpretation was being given to the term 'bolt'". Thus, the interpretation of the term "bolt" was clearly at issue at the time of appeal irrespective of the examiner's inclusion in the answer of case law enumerating the authority of a basic tenet of patent examination, i.e., that claims are to be given their broadest reasonable interpretation during examination.

With respect to appellant's statement that the reply brief includes other arguments that should be considered by the Board, it should be noted that the presence of other content proper for a reply brief does not justify entry of a reply brief that also improperly includes new evidence.

In view of the above, Exhibit A of the reply brief filed April 10, 2008 does, in fact, constitute new evidence that was not previously of record and therefore its inclusion in the reply brief is improper. Accordingly, the reply brief was properly denied entry by the examiner.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Daniel P. Stodola at (571) 272-7087.

Donald T. Hajec, Director
Technology Center 3600
(571) 272-5150
Facsimile No.: (571) 273-8300

TPL/DS: 9/15/08
TR

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 04/21/2010

Applicant	: Melchor Daumal Castellon	: DECISION ON REQUEST FOR
Patent Number	: 7604428	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,513	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **631** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,516	03/22/2005	Hideo Ando	268276US2	1867

7590 09/11/2008
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
GOMA, TAWFIK A

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
09/11/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 09/10/2008 BPOWELL
03/24/2005 JBALINAN 00000012 11085516
02 FC:1111 -500.00 OP

Refund Ref:
09/10/2008 0030060920

Credit Card Refund Total: $860.00

Ac Exp..: XXXXXXXXXXX1009

FORM PET651G (Rev. 08/07)

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Standley Law Group, LLP
495 Metro Place South
Suite 210
Dublin, OH 43017

COPY MAILED

AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
John Douglas Picken	:	
Application No. 11/085,527	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO WITHDRAW
Attorney Docket No. ANI-2025-026	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 17, 2007.

The request is **APPROVED**.

A review of the file record indicates that Stephen L. Grant of the firm Standley Law Group LLP: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, all the attorneys associated with customer number 08698 have been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The revocation of power of attorney submitted on August 9, 2006 was improperly accepted by the Office on October 18, 2006 since it failed to satisfy the provisions of 37 CFR 3.73(b). In this regard, the "Statement under 37 CFR 3.73(b)" contained an incorrect reel and frame number where the recorded assignment appears in the assignment records of the Office. Futher, the statement under 3.73(b) was not executed in accordance with 1.33(b).

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Applicant is reminded that there is no attorney of record at this time.

A non-final rejection was mailed on March 12, 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: John Douglas Picken
30 Doon Drive, Unit 20
London, Ontario
CANADA N5X 3X1

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,527	03/22/2005	John Douglas Picken	ANI 2025-026

CONFIRMATION NO. 5521

OC000000025141718

8698
STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/17/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Gravinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,538	03/22/2005	Seong-Geun Kwon	48566	6099

7590 09/12/2008
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER
CHEN, WENPENG

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
09/12/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nicole Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
09/15/2008 NFARMER 0000164358

CHECK Refund Total: $500.00

Adjustment date: 09/15/2008 NFARMER
03/24/2005 HTECKLU1 00000035 11085538
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/04/06

TO SPE OF : ART UNIT **2125**

SUBJECT : Request for Certificate of Correction on Patent No.: 11085554 6993403

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-9380 ext. 123

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 2125

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
1201 NEW YORK AVENUE NW, SUITE 700
WASHINGTON, DC 20005

MAILED

OCT 30 2009

OFFICE OF PETITIONS

In re Application of :
Kenji KURASHIMA, et *al.* :
Application No. 11/085,557 : DECISION GRANTING PETITION
Filed: March 22, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1075.1361** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 22, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2416 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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P.O. Box 1450
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Patent No. : 7,064,301 B2
Serial No. : 11/085,574
Inventor(s) : Han et al.
Issued : June 20, 2006
Title : **ELECTRIC HEATER**
Docket No. : **032758-11**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300 ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

ecw

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United States Patent and Trademark Office
P.O. Box 1450
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BIRCH STEWART KOLASCH & BIRCH
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Patent No. 7,064,301 :
Issue Date: June 20, 2006 :
Application No. 11/085,574 : ON PETITION
Filed: March 22, 2005 :
Patentee(s): Incheol Han, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed February 26, 2009, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

As authorized, the $130 processing fee and $100 Certificate of Correction fee have been charged to petitioner's deposit account.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Pavlos, Spero	:	
Application No. 11/085,580	:	ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. PAVL3001/JJC/PMB	:	

This is a decision on the petition under 37 CFR 1.182, filed, August 22, 2008, to change the name of inventor "Spero Pavlos" to – Spero Pavlopoulos –.

The petition is **GRANTED**.

Office records have been corrected to reflect the correct name of the above-named inventor. A corrected Filing Receipt, which sets forth the correct name of the above-named inventor, accompanies this decision on petition.

The issue fee in this case was paid on September 8, 2008. Therefore, the printing of the patent may have progressed to the point where the correct spelling of the inventor's name could not be included on the front page of the Letters Patent. In such event, petitioner may request a certificate of correction pursuant to the provisions of 37 CFR 1.323 and pay the required fee of $100.

Petitioner submitted $130.00 towards payment of the $400.00 petition fee. Accordingly, an additional $270.00 will be charged to petitioner's deposit account as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt

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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/085,580	03/22/2005	3781	800	PAVL3001/JJC/PMB	16	1

CONFIRMATION NO. 5749

CORRECTED FILING RECEIPT

23364
BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

OC000000032502235

Date Mailed: 10/08/2008

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)

Spero Pavlopoulos, Willow Springs, IL;

Power of Attorney:

J Kenney--19179
Eric Spector--22495
Felix D'Ambrosio--25721
Eugene Mar--25893
Richard Fichter--26382
Joseph De Benedictis--28502
Thomas Moore--28974
Chung Chin Chen--31725
Benjamin Urcia--33805

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 093131262 10/15/2004

If Required, Foreign Filing License Granted: 04/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/085,580**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

CUP ASSEMBLY HAVING A COOLING COMPARTMENT

Preliminary Class

220

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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July 20, 2009

Craig Metcalf
Kirton & McConkie
60 East South Temple, Suite 1800
Salt Lake City, UT 84111

Patent No: 7,550,388 B2
Application No.: 11/085,612
Inventor(s): Junhui Oh, et al.
Issued: June 23, 2009
Title: **POLISHING COMPOSITION AND POLISHING METHOD**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 756-1591

vt

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Kirton & McConkie
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

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OCT 01 2009

OFFICE OF PETITIONS

Patent No. 7,550,388	:	
Issue Date: June 23, 2009	:	
Application No. 11/085,612	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 16116.7	:	

This is a decision on the petition filed August 5, 2009, which is being treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a petition fee of $130. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request.

Inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

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Kirton & McConkie
60 East South Temple
Suite 1800
Salt Lake City, UT 84111

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MAY 12 2010

OFFICE OF PETITIONS

Patent No. 7,550,388	:	
Issue Date: June 23, 2009	:	
Application No. 11/085,612	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 16116.7	:	

This is a decision on the renewed petition filed November 11, 2009, under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

Carl Friedman
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Jimmy W. Mays	: DECISION ON REQUEST FOR
Patent Number	: 7619036	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,619	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **337** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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LARSON NEWMAN & ABEL, LLP
5914 WEST COURTYARD DRIVE
SUITE 200
AUSTIN TX 78730

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Randolph D. Gray	:	DECISION ON PETITION
Application No. 11/085,656	:	TO WITHDRAW
Filed: March 21, 2005	:	FROM RECORD
Attorney Docket No. 1126-0001-CIP	:	

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, 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 Blake L. Jansen on behalf of all attorneys of record who are associated with Customer No. 34456.

All attorneys/agents associated with Customer Number 34456 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, there is an outstanding Office action mailed January 6, 2010 that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Randolph D. Gray
16721 Chamonix Terrace
Round Rock, TX 78681

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DITTHAVONG & CARLSON, P.C.
Suite A
10507 Braddock Road
Fairfax VA 22032

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OFFICE OF PETITIONS

Applicant: Watanabe
Appl. No.: 11/085,692
Filing Date: March 21, 2005
Title: PAPER MACHINE PRESS ROLL, ITS MANUFACTURING METHOD, PRESSING METHOD OF WET PAPER WEB AND SURFACE GRINDING METHOD OF PAPER MACHINE PRESS ROLL
Attorney Docket No.: 1050-1002
Pub. No.: US 2005/0215403 A1
Pub. Date: September 29, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on November 30, 2005, and copies of missing papers submitted on October 2, 2005, for the above-identified application.

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors in the specification and claims, wherein "*b*" is misprinted as "his"; "*μ m*" is misprinted as "m"; "μ m" is misprinted as "m"; "1.5 μ m" is misprinted as "1.5 m"; "≥" is misprinted as "≤"; "55 μ m" is misprinted as "55 m" and "8.0" is misprinted as "-8.0"

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 instant request identifies material mistakes by the Office with respect to the #5 "≥" is misprinted as "≤" and #7 wherein "8.0" is misprinted as "-8.0". The request also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

[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).

The other errors noted by requestor in this published application are due to the poor quality of the text in the application. Some of the text in the formulas such as "*b*" and "*μ m*" is very faint and not clear. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. While the text is legible, the text is not clear, which makes it difficult to electronically reproduce by digital imaging and optical character recognition.

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

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 in 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 O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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August 2005

KING & SPALDING LLP
191 PEACHTREE STREET, N.E., 45TH FLOOR
ATLANTA, GEORGIA 30303

SEP 01 2005

In re Application of: THOMAS CABLE ET AL. Serial No.: 11/085,694 Filed: 21 March 2005 Docket: 09798.105003	: : : : :	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

This is a decision on the petition filed on August 12, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention, and stated that an election will be made without traverse if so required; c) a statement that a pre-examination search was made, including the search areas; d) copies of the references stated as being most closely related to the claimed subject matter; and e) a discussion of the teaching of the references in comparison to the claims of the instant application.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a)-(d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them

from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the cited references, and states that they do not teach the specific limitations claimed in the independent claims. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. Here, petitioner does not state specifically the limitations of each independent claim which are not taught by each reference. Petitioner has merely copied an identical swath of claim text from the independent claims and makes a conclusory statement for each reference that the claim text is not taught by the reference. It must be made clear, for each reference, which claim elements are taught and which are not taught. Furthermore, each independent claim must be addressed; claim 1 does not require the "non-check" limitation which appears in claim 10. Since each discussion states that the references do not teach "non-check" processing, it is unclear whether the references would read on claim 1. The discussion of the references must be detailed enough to leave no guesswork as to the petitioner's reading of the teaching of the references with respect to each of the claims.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant, and a statement complying with MPEP § 708.02(VIII)(b).

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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January 2006

KING & SPALDING LLP
45th Floor
191 Peachtree Street, N.E.
Atlanta, GA 30303

MAR 0 1 2006

In re Application of: THOMAS LEE CABLE ET AL. Serial No.: 11/085,694 Filed: 21 March 2005 Docket: 09798.105003 Title: METHOD AND SYSTEM FOR PROCESSING A FINANCIAL TRANSACTION	DECISION ON REQUEST FOR RECONSIDERATION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the request for reconsideration, filed November 3rd, 2005, of the decision dated September 1st, 2005, dismissing the petition to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In the request for reconsideration, petitioner provides a detailed discussion of how each of the references distinguishes over each of the independent claims 1, 10 and 15, thus meeting the requirement of MPEP § 708.02(VIII)(e). The requirements of MPEP § 708.02(VIII)(a)-(d) were considered to have been met in the preceding decision.

Therefore, the requirements of MPEP § 708.02(VIII)(a)-(e) having been met, the application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02. Any restriction later required by the Office must be responded to with an election without traverse by applicant as a condition for the application retaining its special status.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for

the subsequent action unless the applicant promptly makes a bona fide effort to place the application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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DANA ANDREW ALDEN
MACLEAN-FOGG COMPANY
1000 ALLANSON ROAD
MUNDELEIN, IL 60060

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OFFICE OF PETITIONS

In re Application of	:	
Larry J. Wilson	:	
Application No. 11/085,697	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 08-9540-6520-0000-9	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 2008, to revive the above-identified application.

The petition is not signed by an attorney of record in this application, however, the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that Mark C. Bach is authorized to represent the particular party on whose behalf he acts, in accordance with 37 CFR 1.34(a). While a courtesy copy of this decision is being mailed Mr. Bach, all future correspondence will be directed solely to the address of record.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1),

It is noted that an amendment was included with the petition filed on September 8, 2008. However, the amendment is considered non-responsive since the amendment does not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(II)(A)(2).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure: Advisory Action

cc: MARK C. BACH
2122 YORK ROAD, SUITE 180
THE ALDEN LAW GROUP, L.L.P.
OAK BROOK, IL 60523

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/085,697	Applicant(s) WILSON, LARRY J.	
	Examiner Jack W. Lavinder	Art Unit 3677	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 September 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-3,5,6,8,10-16,18,19 and 21-25*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 3. NOTE: the prior art to Goiny does disclose all the claimed elements including a cap (41, 43, 45). The applicant refers to a board decision and quotes the board as stating that the element in Goiny is not considered to be a cap and the examiner has not shown that one of skill in the art would consider it to be acap. A newly found reference shows a similar element performing a similar function and it is referred to by the disclosure as a cap (see Espey, 5350266, element 40 which meets the examiner's interpretation of a cap). Espey refers to this retainer that has an aperture in the top portion (40,45,47,48) as a cap. Therefore, one having ordinary skill in the art would consider Goiny's element (41, 43, 45) as a cap..

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DANA ANDREW ALDEN
MACLEAN-FOGG COMPANY
1000 ALLANSON ROAD
MUNDELEIN, IL 60060

MAILED

APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Larry J. Wilson	:	
Application No. 11/085,697	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 08-9540-6520-0000-9	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 27, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 8, 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). In view of the 3-month extension of time filed August 1, 2008, the application became abandoned on August 9, 2008. On September 8, 2008 a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed October 27, 2008. In response, on March 27, 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 a Request for Continued Examination (RCE), including the submission required by 37 CFR 1.114; and fee of $810, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

It is noted that petitioner submitted a 2-month extension of time of $490, with the petition herein. However, a 3-month extension of time of $1,110 is necessary to make the reconsideration timely. Therefore the deposit account will be charged for the deficient amount of $620, as authorized.

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 Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center AU 3677 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DANA A. ALDEN
THE ALDEN LAW GROUP, L.L.P.
2122 YORK ROAD, SUITE 180
OAK BROOK, IL 60523

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TAROLLI, SUNDHELM, COVELL & TUMMINO, LLP
1300 EAST NINTH STREET
SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/27/2010

Applicant	: Tom Calcei	: DECISION ON REQUEST FOR
Patent Number	: 7610681	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/085,711	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1032** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JENNINGS, STROUSS & SALMON, P.L.C.
201 E. WASHINGTON ST., 11TH FLOOR
PHOENIX AZ 85004

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OFFICE OF PETITIONS

In re Application of	:	
Vail et al.	:	
Application No. 11/085,717	:	DECISION ON PETITION
Filed: 21 March, 2005	:	
Atty Docket No. 54842-32 ORD	:	

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 9 December, 2005, for failure to timely reply to the non-final Office action mailed on 8 September, 2005, which set a three (3) month shortened statutory

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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)).

period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

This application is being referred to Technology Center Art Unit 1641 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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OPPENHEIMER WOLFF & DONNELLY LLP
45 SOUTH SEVENTH STREET, SUITE 3300
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Johannes J. Verboom	: DECISION ON REQUEST FOR
Patent Number	: 7586831	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,721	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1176** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Howard J. Greenwald P.C.
70 Linden Oaks, Third Floor
Rochester, NY 14625

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OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang	:	
Application No. 11/085,726	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. XW-809	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Howard Greenwald and all attorneys/agents of record has been revoked by the assignee of the patent application on April 3, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD NY 14526

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

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In re Application of	:	
Jay J. Ondrovic, et al.	:	
Application No. 11/085,727	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No.: 201141.00101	:	

This is a decision on the petition, filed by the Electronic Filing System (EFS) on April 10, 2006, to withdraw the above-identified application from issue under 37 CFR 1.313(c)(2).

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 9, 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 1725 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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In re Application of	:	
Tosi, et al.	:	
Application No. 11/085,734	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. YOR920040590US1	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 20, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed January 5, 2007. This Office action set an extendable period for reply of three (1) month. No reply having been received, the application became abandoned on February 6, 2007. A Notice of Abandonment was mailed on February 11, 2008.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO Electronic Acknowledgment Receipt, dated February 2, 2007 and itemizing a "Response to Election/Restriction".

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.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The application is being forwarded to Group Art Unit 2826 for consideration of the "Response to Second Restriction Requirement" filed February 2, 2007 (copy supplied with the instant petition).

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Victor S. Pak	:	
Application No. 11/085,742	:	DECISION ON PETITION
Filed: March 21, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 0501-01	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed May 30, 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 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)(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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 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 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 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2618 for consideration of the ADS and the amendment filed May 30, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119 to the prior-filed application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/085,742	03/21/2005	2618	500	0501-01	12	11	2

CONFIRMATION NO. 9421
CORRECTED FILING RECEIPT
OC000000020984044
OC000000020984044

23392
FOLEY & LARDNER
2029 CENTURY PARK EAST
SUITE 3500
LOS ANGELES, CA 90067

Date Mailed: 10/26/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Victor S. Pak, San Mateo, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23392**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/555,064 03/22/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/085,742

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Ceiling-mounted wireless network access point

Preliminary Class
455

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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1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

In re Application of	:	
Brian G. James et al	:	
Application No. 11/085,769	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 16-757	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 30, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 17, 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 above-identified application became abandoned on June 18, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3726 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Robert J. Proebsting	: DECISION ON REQUEST FOR
Patent Number	: 7640391	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,770	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Alan Marc Kleinfeld	: DECISION ON REQUEST FOR
Patent Number	: 7601510	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,792	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **518** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

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OFFICE OF PETITIONS

In re Application of	:	
Tromczynski et al.	:	DECISION ON PETITION
Application No. 11/085,794	:	TO WITHDRAW
Filed: March 21, 2005	:	FROM RECORD
Attorney Docket No. 116882.00037	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 15, 2006, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **APPROVED**.

A review of the file record indicates that Scott M. Oldham: (1) does not have power of attorney in this patent application; but (2) has been employed or otherwise engaged in the proceedings in this patent application. Scott M. Oldham may not act in a representative capacity under 37 C.F.R. § 1.34 unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

A Revocation of Power of Attorney was submitted on September 22, 2005. The request was not acceptable as neither the applicants nor the assignee of record of the entire interest filed the request. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to Customer Number 33139 at the first address indicated below in view of the Oath/Declaration submitted on September 22, 2005.

There is an outstanding Office action mailed February 24, 2006 that requires a reply from the applicants.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

LAW OFFICES OF EMIL CHANG
874 JASMINE DR
SUNNYVALE, CA 94086

EMIL CHANG, GENERAL COUNSEL
ONVANTAGE, INC.
3920 FREEDOM CIRCLE, STE. 200
SANTA CLARA, CA 95054

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 11, 2009

TO SPE OF : ART UNIT 2164
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/085795 Patent no. RE39839

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The amendment to column 8, line 43 does not apply since the word "rigidified" already appears in the patent at that line

PHILIP TUCKER
SPE

1791
Art Unit

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Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto, CA 94303

In re Application of	:	
Jon Heim	:	
Application No. 11/085,798	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. ARMU-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 July 21, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and agents associated with Customer Number 24353 have been revoked by the assignee of the patent application on October 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams for

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Levine Bagade Han LLP**
2483 East Bayshore Road, Suite 100
Palo Alto, CA 94303

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,798	03/21/2005	Jon Heim	ARMU-002

CONFIRMATION NO. 9678

OC000000021035893

OC000000021035893

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

Date Mailed: 10/30/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,798	03/21/2005	Jon Heim	ARMU-002

CONFIRMATION NO. 9678

OC000000021035835

OC000000021035835

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 10/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2006.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW ATTORNEY/AGENT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,798	03/21/2005	Jon Heim	ARMU-002

CONFIRMATION NO. 9678

OC000000021035835

OC000000021035835

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 10/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2006.

- 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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE IN 46802

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Robert G. Pinkerton et al. :
Application No. 11/085,800 :
Filed: March 21, 2005 :
Attorney Docket No. SIM0092 :

This is a decision on the petition, filed December 1, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

A Final Office Action was mailed October 31, 2007 which set a three month period for response. In response thereof, a Notice of Appeal was filed April 30, 2008, with a three month extension of time request. Instead of filing an Appeal Brief by June 30, 2008, petitioners argue that a response with a five month extension of time was permissable up to November 30, 2008. With that petitioners argue that a five month extension of time was filed December 1, 2008 in the instant application and that a Continuation Application was filed in response.

However, no response having appeared to be filed, a Notice of Abandonment was mailed on November 25, 2008.

A search of the application file and the USPTO records reveals that in fact, a five month extension of time was filed to extend the response date to December 1, 2008 and further that a continuation application, application no. 12/325,714, was filed on December 1, 2008 pursuant to the provisions of 37 CFR 1.53(b).

Accordingly, a continuation application and proper extension of time was timely filed December 1, 2008 in response to the Notice of Appeal filed April 30, 2008. The Notice of Abandonment mailed November 25, 2008 was therefore mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

This matter is being referred to Technology Center 2831.

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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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	:	
HEIM	:	
Application No. 11/085,804	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. ARMU-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Karl Bozicevic of BOZICEVIC, FIELD & FRANCIS LLP has been revoked by the assignee of the patent application on October 10, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LEVINE BAGADE HAN LLP**
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,804	03/21/2005	Jon Heim	ARMU-001

CONFIRMATION NO. 9686

OC000000021845008

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

Date Mailed: 01/04/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,804	03/21/2005	Jon Heim	ARMU-001

CONFIRMATION NO. 9686

OC000000021844984

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 01/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/10/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/085,810	03/21/2005	Steven W. Lundberg	1551.028US1	1525

70859 7590 07/16/2010
COMPUTER PATENT ANNUITIES NORTH AMERICA, LLC
C/O CPA GLOBAL
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER
TRUONG, CAM Y T

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
07/16/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Computer patent Annuities North America, LLC
C/O CPA Global
P.O. Box 52050
Minneapolis, MN 55402

In re Application of:
Steven W. LUNDBERG et al
Application No. 11/085,810
Filed: March 21, 2005
For: SYSTEM AND METHOD FOR INTELLECTUAL PROPERTY INFORMATION MANAGEMENT USING CONFIGURABLE ACTIVITIES

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 23 October 2009. A Notice of Abandonment was mailed on 06 July 2010.

A review of the file record indicates that a Notice of Appeal and a request for 3 months extension of time were timely filed on 21 April 2010. Thus, applicant has until 22 November 2010 (with a request for 5 months extension of time) to file an 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 await filing of Appeal Brief.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software
571-272-3613

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OFFICE OF PETITIONS

In re Application of	:	
Steven W. Lundberg et al.	:	
Application No. 11/085,813	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. 1551.021US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, April 9, 2009, which set a shortened statutory period for reply of three (3) months. A three month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 10, 2009. The reply filed on October 9, 2009 was not proper response as required by 37 CFR 1.114. A Notice of Abandonment was mailed on January 11, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination), with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Technology Center AU 2164 for appropriate action in the normal course of business for processing of the RCE received October 9, 2009 and amendment filed February 4, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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HARMAN - BRINKS HOFER CHICAGO
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

Mail Date: 04/21/2010

Applicant	: Phillip Hetherington	: DECISION ON REQUEST FOR
Patent Number	: 7620546	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

Applicant: Macklis et al
Appl. No.: 11/085,839
Filing Date: March 21, 2005
Title: METHODS AND COMPOSITIONS RELATING TO NEURONAL CELL AND TISSUE DIFFERENTIATION
Attorney Docket No.: M0765.70079US01
Pub. No.: US 2005/0266563 A1
Pub. Date: December 1, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 3, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in dependent claim 13 wherein "igfb4" is misprinted as "igb4".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor in dependent claim 13 wherein "igfb4" is misprinted as "igb4" is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to printing "igfb4" as "igb4" in this published application is due to the quality of the text in the application. The text in the sequence is very close together, which makes it difficult to read and difficult to electronically reproduce. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. Patent application publications

[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).

with errors, which are due to the legibility of the text in the application will not be corrected by corrected publication under 37 CFR 1.221(b).

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. When, the text in the application, which is small and close together, which makes it blurry and not clear, also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221-5406

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AUG 29 2008

OFFICE OF PETITIONS

In re Application of
Sven-Jostein Kro
Application No. 11/085,846
Filed: March 22, 2005
Attorney Docket No. LUKP: 139US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on September 11, 2007, which set a period for reply of three (3) months. Accordingly, the application became abandoned on December 12, 2007. A Notice of Abandonment was mailed on May 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 corrected drawings, (2) the petition fee of $1540, (3) a proper statement of unintentional delay. Accordingly, the corrected drawings is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FLEIT GIBBONS GUTMAN
BONGINI & BIANCO P.L.
551 NORTHWEST 77TH STREET, SUITE 111
BOCA RATON, FL 33487

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
Burnard P. BOCKRIS	:	
Application No. 11/085,851	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO WITHDRAW
Attorney Docket No. 1745-P005	:	FROM RECORD
	:	

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 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Fleit, Gibbons, Gutman, Bongini & Bianco P.L., has been revoked by the assignee of the patent application on April 22, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SCOTT D. SMILEY
5722 SOUTH FLAMINGO ROAD, #232
FORT LAUDERDALE, FL 33330

MAILED

MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Burnard P. BOCKRIS	:	
Application No. 11/085,851	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO WITHDRAW
Attorney Docket No. 1745-P0005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed May 4, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Scott D. Smiley 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.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BURNARD P. BOCKRIS
WORLD HYDROGEN, INC.,
HAILE PLANTATION,
10515 S.W. 55TH PLACE
GAINESVILLE, FL 32608

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
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PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11085858	Confirmation Number	2334	Filing Date	2005-03-22
Attorney Docket Number (optional)	A042 P01035-US1	Art Unit	3641	Examiner	JOHNSON, STEPHEN
First Named Inventor	Richard E. Swan				
Title of Invention	MODULAR PANEL SYSTEM FOR ATTACHING ACCESSORIES TO A FIREARM RAIL SYSTEM				

Attention: Office of Petitions

An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV).

APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE.

A grantable petition requires one of the following items:
(1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or
(2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.

Name of Inventor who is 65 years of age, or older

Given Name	Middle Name	Family Name	Suffix
Richard	E.	Swan	

A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18.
Please see 37 CFR 1.4(d) for the format of the signature.

Select (1) or (2) :

○ (1) I am an inventor in this application and I am 65 years of age, or more.

◉ (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.

Signature	/Stephen J. Holmes/	Date (YYYY-MM-DD)	2008-04-04
Name	Stephen J. Holmes	Registration Number	34621

PTO/SB/130 (03-08)
Approved for use through 03/31/2008. OMB 0651- 0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

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 Fr eedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about indivi duals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Application of
Richard E. Swan

Application No. 11085858

Filed: March 22,2005

Attorney Docket No. A042 P01035-US1

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1) ,filed 04-APR-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded “special” status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquires concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY, SUITE 1001
WESTBOROUGH, MA 01581

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JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
Norio Okada :
Application No. 11/085,863 : ON PETITION
Filed: March 22, 2005 :
Attorney Docket No. FPM-023USDIV2

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed on April 27, 2007.

The petition is **granted**.

This application was held abandoned on December 26, 2006, after no reply was received to the non-final Office action mailed September 25, 2006. The notice set forth a shortened statutory period for reply of three months from its mailing date. A Notice of Abandonment was mailed on April 3, 2007. The instant petition was filed on April 27, 2007. Petitioner maintains that the notice of September 25, 2006, was never received and provides a copy of the relevant docket records as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file will be directed to Technology Center 2800, GAU 2814 for further processing, including remailing of the non-final Office action and resetting the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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MUIRHEAD AND SATURNELLI, LLC
200 FRIBERG PARKWAY
SUITE 1001
WESTBOROUGH, MA 01581

Mail Date: 04/21/2010

Applicant	: Norio Okada	: DECISION ON REQUEST FOR
Patent Number	: 7666734	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,863	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **330** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 29 2005

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of William H. Andrews Serial No.: 11/085,872 Filed: March 21, 2005 Attorney Docket No.: SIER-034	: PETITION TO MAKE SPECIAL

This is in response to the petition filed March 21, 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, X. Therefor the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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DIW May-06

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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MAY 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Caswell et al.	:	
Application No. 11/085,879	:	ON PETITION
Filed: 22 March, 2005	:	
Atty Docket No. 74591.010200	:	

This is a decision on the petition filed on 5 April, 2006, styled under 37 CFR 1.47(a), which is being treated as (a) a petition to amend the inventive entity by the deletion of Charlie Lico as an inventor and the addition of Johnny Caswell and Jan Parent as inventors; (2) a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(2) which requires a statement from the person being deleted.[1]

The petition is **GRANTED**.

On 22 March, 2005, the above-identified application was filed. On 20 July, 2005, a declaration in compliance with 37 CFR 1.63 was filed listing Charlie Lico, Howard Livingston, and Roger Paglia as joint inventors.

On 5 April, 2006, the present petition was filed, whereby petitioners request that Charlie Lico be deleted as an inventor, and that Johnny Caswell and Jan Parent be added as joint inventors.

[1] Petitioners should note that where, as here, all of the named inventors executed an oath or declaration, 37 CFR 1.47 is not applicable. Rather, a waiver under 37 CFR 1.183 of 1.63 and 1.67 is required when a named inventor refuses or cannot be located to execute a supplemental declaration.

Petitioners aver that named inventor Lico has refused to sign the statement of deceptive intent required by declaration naming the actual inventors as required by 37 CFR 1.48(a)(2). Petitioners assert, via the statement of registered practitioner Peter J. Gluck, that a copy of the documents were sent to inventor Lico, including a cover letter which states that the papers replace an incorrect filing, but that Lico has failed to sign and return statement of lack of deceptive intent. Specifically petitioners state that despite diligent efforts, counsel has been unable to obtain Lico's signature on the papers needed to correct inventorship. Petitioners have provided statements signed by Johnny Caswell and Jan Parent, the persons sought to be added as inventors, stating that the error in inventorship occurred without any deceptive intention, and a statement signed by joint inventor Paglia, Chief Executive Officer of putative assignee CenterStaging Musical Productions, Inc., consenting to the correction of the inventorship.

Petition Under 37 CFR 1.48(a) and 1.183

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

(1) a petition including a statement from each person being added and each person being deleted as an inventor that the error occurred without deceptive intention on his or her part;

(2) an oath or declaration by each actual inventor or inventors as required by 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47;

(3) the fee set forth in 37 CFR 1.17(i), and

(4) the written consent of any existing assignee, if any of the originally named inventors has executed an assignment.

As a result of papers filed on 23 December, 2004, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and, accordingly, this application has been corrected in compliance with 37 CFR 1.48(a)(2).

In view of the efforts recounted in the petition to obtain the signature of Charlie Lico on the statement required by 37 CFR 1.63 and 1.48(a)(2), it is agreed that justice would be served by waiving the requirement for his signature on the oath or declaration.

The inventorship of this application has been changed by the deletion of: Charlie Lico, Thompsons Station, TN, and by the addition of: Johnny Caswell and Jan Parent, both of Burbank, CA.

Office PALM records have been corrected to reflect the correct inventorship of the application. A corrected Filing Receipt is enclosed for petitioner's records.

Petitioners should note that the fee for a petition under 37 CFR 1.183 is $400.00. Although the petition fee under 37 CFR 1.48 has already been charged. The petition fee due for the petition under 37 CFR 1.183 is also due and will be charged to counsel's deposit account, as authorized in the petition.

The application is being forwarded to Technology Center 2611 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/085,879	03/22/2005	2623	765	74591.010200	4	20	5

CONFIRMATION NO. 4287

CORRECTED FILING RECEIPT

OC000000018866885

33717
GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA, CA 90404

Date Mailed: 05/19/2006

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)

Johnny Caswell, Burbank, CA;
Jan Parent, Burbank, CA;
Roger Paglia, Burbank, CA;
Howard Livingston, Burbank, CA;

Power of Attorney: The patent practitioners associated with Customer Number **33717**.

Domestic Priority data as claimed by applicant

Foreign Applications **Acceptable Request to Retrieve Priority Application Received?**

If Required, Foreign Filing License Granted: 04/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/085,879

Projected Publication Date: 09/28/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Developing and delivering audio or audiovisual presentations including rehearsals

Preliminary Class

725

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).

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Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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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DIW Oct-05

JOHN V. BIERNACKI, ESQ.
JONES DAY
NORTH POINT
901 LAKESIDE AVENUE
CLEVELAND OH 44114

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Yach, Lankford, Dahms, Scian,	:	
and Wilson	:	DECISION ACCORDING STATUS
Application No. 11/085,881	:	UNDER 37 CFR 1.47(a)
Filed: 22 March, 2005	:	
Atty Docket No. 555255012819	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 24 August, 2005 (certificate of mailing 19 August, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor could not be located despite diligent efforts. Specifically, petitioners have established that an E-mail including the application papers as an attachment was sent to the non-signing inventor, but no response was received. Furthermore, a letter sent to the last known address of the non-signing inventor was returned as undeliverable. As such, petitioners have shown that despite diligent efforts, the non-signing inventor could not be located.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition, not the Declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The petition fee of $200.00 will be charged to counsel's deposit account, No. 50-1432, as authorized in the present petition.

The application is being referred to Technology Center Art Unit 2661 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-05

Gerald Winton Lankford, Jr.
295 Philip Street
Waterloo ON N2L 3W8
CANADA

COPY MAILED

OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of
Yach et al.
Application No. 11/085,881
Filed: 22 March, 2005
For: SYSTEM AND METHOD FOR RECOVERING FROM A SOFTWARE PROCESSING ERROR

Dear Mr. Lankford:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

John V. Biernacki, Esq.
JONES DAY
North Point
901 Lakeside Avenue
Cleveland OH 44114

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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ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of	:	
STEIN ET AL	:	
Application No. 11/085,889	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 007157/289675	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 6, 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 an affidavit by the Applicant stating that Applicant 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 Thurman K. Page at 571-272-0602.

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 1617 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

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JUN 19 2009

OFFICE OF PETITIONS

In re Application of :
Yu-Chou LEE :
Application No. 11/085,907 : DECISION ON PETITION
Filed: March 21, 2005 :
Attorney Docket No. **386998025US1** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 13, 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 April 18, 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 extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of April 18, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2822 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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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LEAR CORPORATION, BLISS MCGLYNN, P.C.
2075 WEST BIG BEAVER ROAD
SUITE 600
TROY MI 48084

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JUN 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Sallam, et al.	:	
Application No. 11/085,914	:	DECISION GRANTING
Filed: March 22, 2005	:	PETITION
Attorney Docket No. 05567 (3883.00085)	:	
For: VEHICLE OCCUPANT SENSING SYSTEM HAVING GUIDING RIBS	:	

This is a decision on the petition, filed June 9, 2005 (certificate of mailing date June 7, 2005), requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed May 12, 2005.

The application was filed on March 22, 2005. On May 12, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 7-12 of the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that pages 7-12 be accorded a filing date of March 22, 2005 on the basis that the entire specification, including allegedly missing pages 7-12, was received in the Patent and Trademark Office (PTO) on March 22, 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 22, 2005 as the date of receipt. The postcard lists that the filing included, *inter alia*, 28 pages of description. A review of the application file reveals that there are 22 pages present. Pages 7-12 are missing.

The return postcard constitutes *prima facie* evidence that the entire 28 page specification/description, including missing pages 7-12, was filed on March 22, 2005. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioners' authorization, the $400.00 petition fee will be refunded via a treasury check that will be scheduled shortly.

The application is being returned to Office of Initial Patent Examination for further processing,

with a filing date of **March 22, 2005**, using the copy of pages 7-12 supplied with the petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PHILIP S JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Tokarski, et al.	:	DECISION ACCORDING STATUS
Application No. 11/085,924	:	UNDER 37 CFR 1.47(a)
Filed: March 22, 2005	:	
Attorney Docket No. VTN-5030USNP	:	

This is in response to the petition under 37 CFR 1.47(a), filed October 12, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on March 22, 2005, without an executed oath or declaration. Accordingly, on April 20, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on October 12, 2005, made timely with a four month extension of time. Accompanying the petition was a declaration executed by inventors Michael Tokarski, Edward Dzwill, George Brock, Roger W. Smith, Michael Scott Ulrich, Stephen L. Grimes, and Jan B. Yates, with the signature block for James Peck left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has attested that a copy of the application papers was mailed to the last known address of Peck. However, According to Rule 47 applicant, no executed declaration has been received.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 3721 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAMES PECK
13301 MAPLE KNOLL WAY
APT 1406
MAPLE GROVE MN

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DEC 02 2005

OFFICE OF PETITIONS

In re Application of :
Michael Tokarski, James Peck, Edward :
Dzwill, George Brock, Roger W. Smith, :
Michael Scott Ulrich, Stephen L. :
Grimes, Jan B. Yates : LETTER
Application No. 11/085,924
Filed: March 22, 2005
Title: Ophthalmic Lens Package

Dear Mr. Peck:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Ruby T. Hope
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933
732-524-1024

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Darby & Darby
P.O. Box 5257
New York NY 10150-5257

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AUG 0 4 2005
OFFICE OF PETITIONS

In re Application of :
Aubry et al. :
Application No. 11/085,930 :
Filed: March 21, 2005 :
Attorney Docket No. 03795/100J958-US1 :

ON PETITION

This is a decision on the petition filed April 28, 2005, requesting that the above-identified application be accorded a filing date of March 21, 2005.

On March 21, 2005, applicants deposited the above-identified application. However, on April 19, 2005, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification deposited on March 21, 2005, describes drawings containing Figures 1a, 1b, 2, 3 and 4; however, it appears the United States Patent and Trademark Office (Office) did not receive any drawings on filing.

In response, applicants submitted the present petition, two sheets of drawings containing of Figures 1a, 1b, 2, 3 and 4, and the petition fee.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> 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 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 and the names of all the inventors.

This application contains process claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" 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.

In view of the above, the "Notice of Incomplete Nonprovisional Application" mailed April 19, 2005, was sent in error and is hereby withdrawn. The application will be accorded a filing date of March 21, 2005.

Accordingly, the petition is granted.

The $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 04-0100.

The Office of Initial Patent Examination is directed to accord the application a filing date of March 21, 2005, with "0" sheets of drawings.

Applicants may file an amendment with the examiner prior to the first action on the merits requesting entry of the drawings.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OIPE JC181
AUG 2 3 2005
PATENT & TRADEMARK OFFICE

JC09 Rec'd PCT/PTO 02 NOV 2001

Return of this card properly stamped, will acknowledge receipt of:

Transmittal Letter (2 pgs.), Combined Declaration for Patent Application and Power of Attorney (2 pgs.), Description (32 pgs.), Claims (2 pgs.), Abstract (1 pg), Drawings (2 pages), Affirmation of Priority Claim (2 pgs.) And Check No. 4163 For $860.00.

Applicant : Dany AUBRY et al.
Serial No. : T/B/A 10/018595
Filed : Concurrenlty herewith
For : **SCALABLE BIOREACTOR CULTURE PROCESS AND SYSTEM FOR THE MATURATION OF CONIFER SOMATIC EMBRYOS**
Attorney : Melvin C. Garner/mmr
File No. : 3795/0J958US0 EL767727845US

Mailed 11-2-01 Mailer: DP

UNITED STATES PATENT AND TRADEMARK OFFICE

03795/100J958-US1

OIPE JC161
AUG 2 3 2005
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P.O. Box 1450
Alexandria, VA 22313-1450
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Darby & Darby
P.O. Box 5257
New York NY 10150-5257

TO: M.C. Garner
ATTY REVIEWED
DATE:

COPY MAILED
AUG 0 4 2005
OFFICE OF PETITIONS

In re Application of
Aubry et al.
Application No. 11/085,930
Filed: March 21, 2005
Attorney Docket No. 03795/100J958-US1

ON PETITION

This is a decision on the petition filed April 28, 2005, requesting that the above-identified application be accorded a filing date of March 21, 2005.

On March 21, 2005, applicants deposited the above-identified application. However, on April 19, 2005, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification deposited on March 21, 2005, describes drawings containing Figures 1a, 1b, 2, 3 and 4; however, it appears the United States Patent and Trademark Office (Office) did not receive any drawings on filing.

In response, applicants submitted the present petition, two sheets of drawings containing of Figures 1a, 1b, 2, 3 and 4, and the petition fee.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is <u>not</u> 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 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 and the names of all the inventors.

This application contains process claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" 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.

In view of the above, the "Notice of Incomplete Nonprovisional Application" mailed April 19, 2005, was sent in error and is hereby withdrawn. The application will be accorded a filing date of March 21, 2005.

Accordingly, the petition is granted.

The $400.00 petition fee is unnecessary and will be refunded to Deposit Account No. 04-0100.

The Office of Initial Patent Examination is directed to accord the application a filing date of March 21, 2005, with "0" sheets of drawings.

Applicants may file an amendment with the examiner prior to the first action on the merits requesting entry of the drawings.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Paper No.

Tracey D. Beiriger, Esq.
Eckert Seamans Cherin & Mellott, LLC
Alcoa Technical Center
100 Technical Drive
Alcoa Center, PA 15069-0001

JUL 27 2005

In re Application of:
Weiping Zhao
Serial No.: 11/085,932
Filed: March 21, 2005
Attorney Docket No.: 00-1303 ESCM

NOTICE OF WITHDRAWAL FROM ISSUE UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed June 15, 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.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any 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 T. C. Patel at (571) 272-2098.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

4

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
11/085939	3/21/05	Gibson, Gary	200314356-1

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

EXAMINER	
NGUYEN, KIET	
ART UNIT	PAPER NUMBER
2881	

DATE MAILED: 3/19/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 3-12-07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For Manager, Publications Division
Office of Patent Publication
571-272-4200

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.
11/085,948	03/21/2005	Zhigang He	CMCC:1356	3879

23379 7590 12/18/2009
RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

EXAMINER
CRUZ, KATHRIEN ANN

ART UNIT	PAPER NUMBER
1628	

NOTIFICATION DATE	DELIVERY MODE
12/18/2009	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):

RICHARD@SCI-TECH.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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DEC 1 8 2009

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

In re Application of:	:
He et al.	: PETITION DECISION
Serial No.: 11/085,948	:
Filed: March 21, 2005	:
Attorney Docket No.: **CMCC:1356**	

This is in response to the petition filed by applicants under 37 CFR § 1.181(a) on December 3, 2009, to request designation of New Grounds of Rejection in the Examiner's Answer mailed December 2, 2009, pursuant to MPEP § 1207.03 (IV).

BACKGROUND

On September 16, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time this Office action was mailed, claims 12-27 were pending and rejected. In this non-final Office action, the examiner rejected claims 12-27 under 35 U.S.C. 103(a) as being unpatentable over Merril et al. of record and Beal et al. in view of Szabo et al. Claims 7-16 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 7-9 of copending Application No. 11/085,948 (sic 11/295,647).

On October 14, 2009, a Notice of Appeal was filed.

On October 14, 2009, applicants filed an Appeal Brief, appealing to the Board of Appeals from the examiner regarding the examiner's rejection of the claims.

On December 2, 2009, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner again rejected claims 12-27 under 35 U.S.C. 103(a) as being unpatentable over Merril et al. of record and Beal et al. in view of Szabo et al. Claims 7-16 were also again provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 7-9 of copending Application No. 11/295,647. The examiner also includes Banfield as "**evidence only**" in the Examiner's Answer.

In response thereto, appellants filed this petition under 37 CFR § 1.181(a) on December 3, 2009, requesting the designation of New Grounds of Rejection in the Examiner's Answer mailed December 2, 2009, pursuant to MPEP § 1207.03 (IV).

DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on December 3, 2009, appellants argue that the Examiner's Answer mailed on December 2, 2009 contained a new ground of rejection. Specifically, appellants' argue the "Examiner seeks to introduce for the first time in this record in her Answer a new reference to support a new allegation supposedly supportive of all her pending rejections. In particular, the Examiner seeks to rely on a newly introduced Banfield (1997) reference to support her new allegation that nicotinamide had previously been administered in certain dosage ranges, and more particularly, that Banfield teaches that nicotinamide had been administered in the dosage form of 2 grams/day - supposedly in the dosage range required by our claims."

Examiner added a heretofore uncited document in Section (8), Evidence Relied Upon (page 2 of the Examiner's Answer mailed December 2, 2009). Appellants further note that the document was used to support the Examiner's arguments on page 10 of the Examiner's Answer mailed December 2, 2009.

It is Appellants position, in view of the newly cited art relied upon by the Examiner, that the present rejection constitutes a New Ground of Rejection pursuant to M.P.E.P. §1207.03(III):

> *A new prior art reference applied or cited for the first time in an examiner's answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).*

Appellants also argue that "MPEP 1207.03 does not purport to allow Examiners to subvert Due Process and deny applicants a full and fair opportunity to respond to new evidence, but only indicates the possibility of justifying a new reference in an Answer in the limited situation where the evidence is offered only to support a prior allegation as to what is "common knowledge":

> *Where a newly cited reference is added merely as evidence of the prior statement made by the examiner as to what is "well-known" in the art which was challenged*

for the first time in the appeal brief, the citation of the reference in the examiner's answer would not ordinarily constitute a new ground of rejection within the meaning of 37 CFR 41.39(a)(2). See also MPEP § 2144.03.

For what is meant by common knowledge, MPEP1207.03 cites MPEP § 2144.03:

> 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art
>
> In certain circumstances where appropriate, an examiner may take official notice of facts not in the record or rely on "common knowledge" in making a rejection, however such rejections should be judiciously applied.
>
> ...It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art [like specific dosages of a particular drug used anecdotally to treat a certain unusually rare disease] must always be supported by citation to some reference work recognized as standard in the pertinent art."

Appellants further argue "the new evidence is not relied upon to support any prior allegation - let alone one of common knowledge. Rather, a new allegation is offered contending prior use of particular dosages of a particular compound, supposedly supported by newly offered evidence in the form of an obscure, decade-old, foreign reference that describes some unusual case reports of treating an exceedingly rare immunological disease (bullous pemphigoid evolving into cicatricial pemphigoid) that has nothing to do with the subject of the invention (treating neurodegeneration as a result of multiple sclerosis)."

Appellants' points on the above issues are well-taken and persuasive. A detailed review of the rejection shows that the examiner did set forth a new reference. Consequently, appellants have not been provided a fair opportunity to carefully consider and respond to this new reference included in the Examiner's Answer.

It is thus decided that the Examiner's Answer of December 2, 2009 indeed introduced a new ground of rejection. A new ground of rejection is permissible in an Examiner's Answer; however, an Examiner's Answer containing a new ground of rejection must adhere to the provisions set forth in the MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer as identified herein may be permissible according to MPEP § 1207.03; however, the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 I for guidance).

Because the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not properly adhere to the requirements for setting forth a new ground of

rejection in the Examiner's Answer as set forth above, the Examiner's Answer of December 2, 2009 was improper and is hereby VACATED.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 I for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Remy Yucel
Director, Technology Center 1600

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : September 12, 2009

Patent No. :7422562
Inventor(s) :11/085957
Issued :September 9, 2008
Title :REAL-TIME MEASUREMENT OF VENTRICULAR STROKE VOLUME VARIATIONS BY :CONTINUOUS ARTERIAL PULSE CONTOUR ANALYSIS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

EFS web uspto.gov/ebc/index.html
(must be registered as an e-filer to submit responses)
Technical Support 1-866-217-9197

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 756-1541.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (703) 756-1541

Gregory J. Carlin,
Edward Lifesciences Corporation
One Edwards Way,
Irvine, CA 92614

/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
www.uspto.gov

Date : October 30, 2009

Patent No. :7422562
Inventor(s) :Hatib et al.
Issued :Sep. 9, 2008
Title :REAL-TIME MEASUREMENT OF VENTRICULAR STROKE VOLUME VARIATIONS
:BY CONTINUOUS ARTERIAL PULSE CONTOUR

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;

B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and

C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

EBC Filing: E-mail to efs@uspto.gov
Electronic Business Center 1-866-217-9197
571-272-4100

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Mary Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-1541

Gregory J. Carlin,
Edward Lifesciences Corporation
One Edwards Way,
Irvine, CA 92614

/arg

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS MN 55458

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NOV 08 2006

OFFICE OF PETITIONS

Applicant: Evers
Appl. No.: 11/085,962
Filing Date: July 18, 2005
Title: SIRNA TARGETING PI3K SIGNAL TRANSDUCTION PATHWAY AND SIRNA-BASED THERAPY
Attorney Docket No.: 265.00480101
Pub. No.: US 2005/0272682 A1
Pub. Date: December 8, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 11, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in dependent claim 7 as the protein "p85α" is misprinted as "p85w".

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The errors noted by requestor in claim dependent claim 7 as the protein "p85α" is misprinted as "p85w" is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the typographical error in this published application may be due to the poor quality of the symbol. The mistake is a minor printing error, which does not affect the understanding of the application. 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 application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

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[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).

Some of the text in the formulas and tables, such as the symbol in this instance not clear, which makes it difficult to read and difficult to electronically reproduce. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. The text is not clear, as the text of the formula, subscripts and superscripts is very small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. Patent application publications with errors, which are due to the legibility of the text in the application will not be corrected by corrected publication under 37 CFR 1.221(b).

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52. When, the text in the application, which is small and close together, which makes it blurry and not clear, also makes it difficult to read and to electronically reproduce by digital imaging and optical character recognition.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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OCT 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Bruce Donoho	:	
Application No. 11/085,965	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 100745.0023US1	:	FROM RECORD
	:	

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 18, 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, ***attorney and agents left this customer number 3/307. It was agreed that attorney or his agents would filed new powers of attorney for requested client transfers. Attorney has not filed a new power of attorney or has not changed their correspondence address. Therefore, we request withdrawal as power of attorney, and that the correspondence address be changed***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1060
Irvine, CA 92614

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611 Anton Blvd.
Suite 1400
Costa Mesa, CA 92626

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OFFICE OF PETITIONS

In re Application of	:	
Bruce Donoho	:	
Application No. 11/085,965	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 100745.0023US1	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 3, 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 Todd R. Wight 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 November 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Bruce Donoho**
23918 Skyline
Mission Viejo, CA 92692

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/085,965	03/21/2005	Bruce Donoho	

CONFIRMATION NO. 5441

POWER OF ATTORNEY NOTICE

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

OC000000033075231

Date Mailed: 11/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/03/2008.

- 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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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Mahadevan Suryakumar	: DECISION ON REQUEST FOR
Patent Number	: 7586192	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,970	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **589** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SEP 1 2 2005
Director's Office
Group 3700

David J. Bolduc
4805 Pleasure House Ct. #102
Virginia Beach, VA 23455

In re application of Erb, Charles G.	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 11/085,976 Filed: March 22, 2005	:	

For: **SPA SYSTEM FOR TARGETED PERSONAL HYDROTHERAPY**

This is a decision on the petition filed on March 22, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/9/05

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Allan Mishra	: DECISION ON REQUEST FOR
Patent Number	: 7608258	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/085,987	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **430** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 11-10-07

TO SPE OF : **Technology Center** 2829 11/086008

SUBJECT : Request for Certificate of Correction on Patent No.: 7180314 B1

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Elisha Evans
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:

O.K. to the corrections.

[illegible] — **SPE**

2829 — **Art Unit**

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NEW BRUNSWICK NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of
Tokarski, et al.
Application No. 11/086,016
Filed: March 22, 2005
Attorney Docket No. VTN-5049USNP
For: OPTHALMIC LENS PACKAGE WITH INTERNAL DRAINAGE MEMBER

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed October 11, 2005 (certificate of mailing date October 6, 2005).

The petition is granted.

Petitioners have shown that the non-signing inventor, James Peck, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition signed by Attorney Ruby T. Hope and the accompanying exhibits establish that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but he failed to respond to the request that he sign and return a declaration within a reasonable set time period. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Regarding the petition fee, the current fee due for filing a petition under 37 CFR 1.47(a) is $200.00. A $200.00 fee, rather than the $130.00 fee as petitioners specified in the petition, was charged to petitioners' deposit account.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded Technology Center GAU 3728 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JAMES PECK
MALLARD RIDGE APARTMENTS
13301 MAPLE KNOLL WAY
APT. 1406
MAPLE GROVE, MN 55369

COPY MAILED

OCT 2 5 2005

OFFICE OF PETITIONS

In re Application of :
Tokarski, et al. :
Application No. 11/086,016 :
Filed: March 22, 2005 : LETTER
Attorney Docket No. VTN-5049USNP :
For: OPTHALMIC LENS PACKAGE WITH :
INTERNAL DRAINAGE MEMBER

Dear Mr. Peck:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:	
Lawrence Kates	:	
Application No. 11/086,023	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. KATES.039A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 29, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant 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 1614 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

11/18/08

Patent No. : 7259320
Ser. No. : 11086053
Inventor(s) : Seiji Take
Issued : 8/21/07
Title : Thermoelectric conversion materials
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

LADAS & PARRY
224 South Michigan Avenue
Cnicago, Illinois 60604

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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JUN 2 9 2010

OFFICE OF PETITIONS

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO IL 60604

In re Patent No. 7,259,320	:	
Issue Date: August 21, 2007	:	
Application No. 11/086,053	:	DECISION ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. CU-4124	:	

This is a decision on the Request For Reconsideration Of Certificate Of Correction To Correct Assignee Information On Patent, filed April 23, 2010, requesting correction on the Title Page of the subject patent, via issuance of a Certificate of Correction under 37 CFR 1.323, to identify the correct assignee's residence. The Request is being treated as a Petition. A completed Certificate of Correction Form was previous submitted on January 30, 2008.

The petition under 37 CFR 3.81 is **GRANTED**.

Petitioner request that the present Petition was submitted to correct the assignee's residence on the previously submitted PTOL-85B and that such error was inadvertent. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of a Certificate of Correction, to correct the assignee's residence identified thereon from:

"Kyoungki-do (KR)"

to:

--Tokyo-to (JP) --

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a) and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(h) have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the form previous submitted on January 30, 2008.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,259,320.

Cheryl Gibson Baylor

Cheryl Gibson-Baylor
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

GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P.O. BOX 692289
HOUSTON, TX 77269-2289

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APR 24 2008

OFFICE OF PETITIONS

In re Application of :
Kevin Thomas McCarthy et al :
Application No. 11/086,055 : ON PETITION
Filed: March 22, 2005 :
Attorney Docket No. 156001-1 (GERD:0308)SWA

This is a decision on the petition, filed April 22, 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 April 4, 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 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

[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

HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

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JUN 06 2008

In re Application of :
Heybruck, et al. :
Application No. 11/086,064 : ON PETITION
Filed: March 22, 2005 :
Attorney Docket No. HSJ920050051US2

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed on May 16, 2008.

The petition is **DISMISSED**.

The record reflects that a Notice of Non-Compliant Amendment was mailed October 22, 2007, allowing a shortened period for reply of one months from its mailing date. A response was not received and the application became abandoned on November 23, 2007. A Notice of Abandonment was mailed April 2, 2008.

Petitioner maintains that a proper response was filed on October 12, 2007. A review of the application file reveals the response filed October 12, 2007, which was intended to be responsive to the non-final Office action mailed July 13, 2007, however, no response to the October 22, 2007, Notice of Non-Compliant Amendment was found.

Section 711.03 of the *Manual of Patent Examining Procedure* provides guidance where, as in this case, petitioner is arguing that a timely response to the Office action was mailed and provides, in pertinent part, that:

> 37 CFR 1.10(c) through 1.10(e) >and 1.10(g)< set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), * (e)>, or (g)< (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of

abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

The above-cited section of the MPEP explains that in order for correspondence to receive a filing date as of the date of deposit with the United States Postal Service (USPS), the correspondence must either be mailed via USPS Express Mail, or the correspondence must contain a proper certificate of mailing pursuant to 37 CFR 1.8. Correspondence may also receive the date of the receipt with the USPTO if petitioner provides an itemized Office date-stamped postcard whereby the USPTO acknowledges receipt of the item mailed. There is no evidence that petitioner used the procedures provided in 37 CFR 1.8 and 1.10, which, if properly utilized, would allow a filing to be accorded a filing date as of the date mailed or deposited, respectively, rather than the date the filing was received by the Office. The certificate of mailing procedures under 37 CFR 1.8 allow for a filing date to be accorded as of the date the filing was mailed rather than the date the filing was received by the Office provided the procedures set out in 37 CFR 1.8 are followed and the filing is not excepted under 37 CFR 1.8(2)(i). The procedures under 37 CFR 1.10 allow correspondence deposited with the United States Postal Service Express Mail Service pursuant to 37 CFR 1.10 to be accorded a filing date as of the date-in shown on the Express Mail label rather than the date the filing was received by the Office. Filings made by any other mail service, i.e., first class postage, USPS certified mail, FEDEX, Priority Mail, will not receive the benefit of 37 CFR 1.10.

The holding of abandonment will not be withdrawn because petitioner has not provided *prima facie* evidence that a response to Notice of Non-Compliant Amendment was deposited with the USPS Express Mail Service within the period for reply, and has not provided a certificate of mailing pursuant to 37 CFR 1.8, or an USPTO date-stamped postcard showing that a response was filed or deposited in the mail on, or before, November 22, 2007. The petition is dismissed accordingly.

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 ($1540.00 for a large entity and $770.00 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:

United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CARLSON, GASKEY & OLDS/PRATT & WHITNEY
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: Jeffry A. Fint	: DECISION ON REQUEST FOR
Patent Number	: 7596940	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,084	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1143** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FISH & ASSOCIATES, PC
ROBERT D. FISH
2603 Main Street
Suite 1050
Irvine CA 92614-6232

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OCT 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Garry E. Jacobs, et al.	:	
Application No. 11/086,115	:	DECISION ON PETITION
Filed: March 21, 2005	:	TO WITHDRAW
Attorney Docket No. 100325 213218US8	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2008.

The request is **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, ***attorney and agents left this customer number 3/307. It was agreed that attorney or his agents would filed new powers of attorney for requested client transfers. Attorney has not filed a new power of attorney or has not changed their correspondence address. Therefore, we request withdrawal as power of attorney, and that the correspondence address be changed***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Fish**
Fish & Associates, PC
2603 Main Street, Suite 1050
Irvine, CA 92614

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Oct. 10, 2008

TO SPE OF : ART UNIT 2829

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/086126 /7330041

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 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: _____

HA TRAN NGUYEN
SUPERVISORY PATENT EXAMINER

11/19/09

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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EI 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 29 2008

In re Application of	:	
Robert John Barsotti et al	:	
Application No.11/086,139	:	DECISION ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. FA1112 US NA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement mailed November 20, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received August 6, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
Jun Wang et al :
Application No. 11/086,148 : DECISION ON PETITION
Filed: March 21, 2005 :
Attorney Docket No. 020295C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received May 14, 2007.

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

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Martin John Parker	: DECISION ON REQUEST FOR
Patent Number	: 7571726	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,160	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1177** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Crockett & Crockett
24012 Calle De La Plata
Suite 400
Laguna Hills, CA 92653

COPY MAILED
SEP 13 2006
OFFICE OF PETITIONS

In re Application of McDowall and Bolas :
Application No. 11/086,188 : Decision on Petition
Filing Date: March 21, 2005 :
Attorney Docket No. 212/848 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed April 19, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on June 20, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition is signed by Susan Crockett who was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears the attorney was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Susan Crockett that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, *June 19, 2005*, until the date the petition was filed, March 10, 2006, was not unintentional, petitioner must notify the Office.

An extension of time fee is unnecessary when filing a petition to revive. Therefore, the $795 fee will be credited back to petitioner's credit card.

Receipt is acknowledged of the "Power of Attorney" filed March 10, 2006 signed by McDowall on behalf of the assignee. A review of the document discloses that it is unacceptable since it is not in compliance with 37 CFR 3.73(b). Upon completion and submission of the enclosed blank Certificate under 37 CFR 3.73(b) form, the power of attorney and change of address will be acceptable. The "Power of Attorney" will also be accepted if signed by both inventors. 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 Office of Initial Patent Examination will be informed of the instant decision and will take steps to prepare the application for examination in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attachment: Form for showing under 37 CFR 3.73(b)

PTO/SB/96 (12-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No./Control No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee: corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is _____%)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or a true copy of the original assignment is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Signature	Date
Printed or Typed Name	Telephone Number
Title	

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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MORGAN, LEWIS & BOCKIUS, LLP. (PA)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/21/2010

Applicant	: Chong Ming Lin	: DECISION ON REQUEST FOR
Patent Number	: 7655964	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,199	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **398** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/086,208	03/23/2005	Robert Petit	0580-1023	3917

7590 03/20/2008

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

EXAMINER

ART UNIT	PAPER NUMBER
3708	

MAIL DATE	DELIVERY MODE
03/20/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

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Adjustment date: 03/21/2008  KKING1
03/24/2005 SDIRETA1 00000049 11086208
02 FC:1111                      -500.00 OP
04 FC:1202                       -50.00 OP


Repln. Ref: 03/21/2008 KKING1   0010185700
DA#:250120   Name/Number:11086208
FC: 9204                     $550.00 CR
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FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Xiuguo Cui	: DECISION ON REQUEST FOR
Patent Number	: 7577147	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1045** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Mail Date: 04/20/2010

Applicant	: Seigo Fukushima	: DECISION ON REQUEST FOR
Patent Number	: 7630567	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,234	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1295** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

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OFFICE OF PETITIONS

In re Application of	:	
Opsahl, et al.	:	
Application No. 11/086,244	:	DECISION
Filed: 23 March, 2005	:	
Attorney Docket No. 87345.2181	:	

This is a decision on the petition filed on 26 September, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (Notice of Non-Responsive Reply (as to Restriction Requirement)) mailed on 13 December, 2007, with reply due absent extension of time on or before 13 January, 2008.

The application went abandoned by operation of law after midnight 13 January, 2008.

The Office mailed the Notice of Abandonment on 23 June, 2008.

On 26 September, 2008, Petitioner filed the instant petition, asserting, *inter alia*, that the 13 December, 2007, Notice of Non-Responsive Reply was not received, and averred that copies of the docket sheet for the application and of the due date master docket were enclosed with the petition. They were not. Moreover, Petitioner appears not to have moved stepwise through the Commentary at MPEP §711.03(c)(I).

Thus, Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part:

> The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner **must** state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

> calendar; reminder system; or the individual docket record for the application in question.[1] (Emphasis supplied)

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c)(I).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

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[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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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.
11/086,244	03/23/2005	Scott Opsahl	87345.2181	6626

30734 7590 12/13/2007
BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

EXAMINER
LE, TAN

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
12/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

NOTICE OF NON-RESPONSIVE

1. The reply filed on 09/26/07 is not deemed to be fully responsive to the prior Office Action because Applicant has not complied with the prior office action, which states that Applicant is required under 35 USC. 121 to elect *a single disclosed species* (Fig. 4 or Fig. 6) for prosecution on the merits to which the claims shall be restricted...the requirement must include *an identification of the species* that is elected consonant with this requirement, and *a listing of all claims readable thereon...*" (Page 3 of the office action). Currently no species has been elected. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tan Le
December 7, 2007.

HD

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.
11/086,244	03/23/2005	Scott Opsahl	87345.2181	6626

30734 7590 08/27/2007
BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON, DC 20036-5304

EXAMINER
LE, TAN

ART UNIT	PAPER NUMBER
3632	

MAIL DATE	DELIVERY MODE
08/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

NOTICE OF NON-RESPONSIVE

1. The reply filed on 5/24/07 is not deemed to be fully responsive to the prior Office Action because Applicant has not complied with the prior office action, which states that Applicant is required under 35 USC. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted...the requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon..." (Page 3 of the office action). Currently no species has been elected. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tan Le
August 12, 2007.

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WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of
Opsahl, et al.
Application No. 11/086,244
Filed: 23 March, 2005
Attorney Docket No. 87345.2181

DECISION

This is a decision on the petition filed on 2 February, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements—*and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and*

support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (Notice of Non-Responsive Reply (as to Restriction Requirement)) mailed on 13 December, 2007, with reply due absent extension of time on or before 13 January, 2008.

The application went abandoned by operation of law after midnight 13 January, 2008.

The Office mailed the Notice of Abandonment on 23 June, 2008.

On 26 September, 2008, Petitioner filed a petition, asserting, *inter alia*, that the 13 December, 2007, Notice of Non-Responsive Reply was not received, and averred that copies of the docket sheet for the application and of the due date master docket were enclosed with the petition. They were not. Moreover, Petitioner appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I). Thus, because Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), the petition was dismissed on 1 December, 2008.

On 2 February, 2008, Petitioner filed a petition, asserting, *inter alia*, that the 13 December, 2007, Notice of Non-Responsive Reply was not received, and—while it appeared that and of the due date master docket was supplied—Petitioner's averment that a copy of the docket sheet for the application was provided with the petition appeared to be incorrect. Moreover, Petitioner again appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I). (*See*: the discussion above.)

Thus, Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), which are, in pertinent part:

> The showing required to establish nonreceipt of an Office communication **must** include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner **must** state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket

> or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1] (Emphasis supplied)

Petitioner's attention always is drawn in these matters to the guidance in the Commentary at MPEP §711.03(c)(I).

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

---

[1] *See*: MPEP §711.03(c) (I)(A).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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BAKER & HOSTETLER LLP
WASHINGTON SQUARE, SUITE 1100
1050 CONNECTICUT AVE. N.W.
WASHINGTON DC 20036-5304

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Opsahl, et al.	:	
Application No. 11/086,244	:	DECISION
Filed: 23 March, 2005	:	
Attorney Docket No. 87345.2181	:	

This is a decision on the petition filed on 25 March, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners attentions always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

For reference: Petitioner's attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein of statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (The requirements of the regulations at under 37 C.F.R. §1.181 also impose upon a Petitioner a duty to seek relief there under within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (Notice of Non-Responsive Reply (as to Restriction Requirement)) mailed on 13 December, 2007, with reply due absent extension of time on or before 13 January, 2008.

The application went abandoned by operation of law after midnight 13 January, 2008.

The Office mailed the Notice of Abandonment on 23 June, 2008.

On 26 September, 2008, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, asserted, *inter alia*, that the 13 December, 2007, Notice of Non-Responsive Reply was not received, and averred that copies of the docket sheet for the application and of the due date master docket were enclosed with the petition. They were not. Moreover, Petitioner appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I). Thus, because Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), the petition was dismissed on 1 December, 2008.

On 2 February, 2008, Petitioner filed a petition pursuant to 37 C.F.R. §1.181, asserted, *inter alia*, that the 13 December, 2007, Notice of Non-Responsive Reply was not received, and—while it appeared that and of the due date master docket was supplied—Petitioner's averment that a copy of the docket sheet for the application was provided with the petition appeared to be incorrect. Moreover, Petitioner again appeared not to have moved stepwise through the Commentary at MPEP §711.03(c)(I). (*See*: the discussion above, below.) The petition was dismissed on 12 March, 2009.

On 25 March, 2009, Petitioner filed, *inter alia*, an election as a reply, a petition pursuant to 37 C.F.R. §1.181; averred non-receipt; submitted a docket sheet (file jacket cover) and due-date docket/calendar, a statement of non-receipt, search and non-discovery, description of the docketing system and its reliability in an effort to make a showing consistent with in the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

It is noted that Petitioner failed to file timely pursuant to 37 C.F.R. §1.181 (i.e., within two (2) months of the action complained of (Notice of Abandonment). Thus, Petitioner's reply to the Notice of Abandonment was late under the rule, and Petitioner is reminded of the guidance set forth in the Commentary at MPEP §711.03(c) (in pertinent part):

***

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 C.F.R. 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 C.F.R. §1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 C.F.R. §1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 C.F.R. §1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

***

3.Utility and Plant Applications Filed on or After May 29, 2000

In utility and plant applications filed on or after May 29, 2000, a terminal disclaimer should **not** be required as a condition of granting an untimely petition to withdraw the holding of abandonment. This is because any patent term adjustment is automatically reduced under the provisions of 37 C.F.R. §1.704(c)(4) in applications subject to the patent term adjustment provisions of the American Inventors Protection Act of 1999 (AIPA) if a petition to withdraw a holding of abandonment is not filed within two months from the mailing date of the notice of abandonment, and if applicant does not receive the notice of abandonment, any patent term adjustment is reduced under the provisions of 37 C.F.R. §1.704(a) by a period equal to the period of time during which the applicant "failed to engage in reasonable efforts to conclude prosecution" (processing or examination) of the application.

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1 *See*: MPEP §711.03(c) (I)(A).

> Where the record indicates that the applicant intentionally delayed the filing of a petition to withdraw the holding of abandonment, the Office may simply dismiss the petition as untimely (37 C.F.R. §1.181(f)) solely on the basis of such intentional delay in taking action in the application without further addressing the merits of the petition. Obviously, intentional delay in seeking the revival of an abandoned application precludes relief under 37 C.F.R. §1.137(a) or (b) (***).
>
> ***

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Petitioner's submissions appear to have satisfied the showing required.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **granted**, and the 23 June, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 3632 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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OCT 26 2007
OFFICE OF PETITIONS

In re Application of	:	
Ian A. Harding	:	
Application No. 11/086,261	:	DECISION GRANTING PETITION
Filed: March 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9692-000045/CPB	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 24, 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 October 4, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

COPY MAILED

OCT 2 3 2007

OFFICE OF PETITIONS

In re Application of
Donald Sandell
Application No. 11/086,262
Filed: March 22, 2005
Attorney Docket No. 9692-000061/CPA

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 17, 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 October 16, 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]

As to petitioner's request for a refund of the issue fee, petitioner is advised that a refund of the issue fee may be requested **if the examiner has withdrawn the application from issue for the purpose of reopening prosecution**. The request for withdrawal from issue in this case was at the request of the applicant, not the Office. Petitioner's attention is further directed to 37 CFR 1.26, which states:

> The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal or a request for an oral hearing, will not entitle a party to a refund of such fee.

[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.*

Further, the issue fee was owned at the time of payment, as well as the publication fee, as this application was published. Therefore, payment of the fees was not made by mistake or in excess of that required nor was there a mistake in payment as contemplated by 37 CFR 1.26. Accordingly, the issue and publication fees are not refundable.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2877 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Mitsutosi Koide	: DECISION ON REQUEST FOR
Patent Number	: 7637242	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

ALBUQUERQUE ENGINEER DISTRICT
ATTN: CESPA-OC
4101 JEFFERSON PL. NE
ALBUQUERQUE, NM 87109-3434

COPY MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Norbert E. Yankielun	:	
Application No. 11/086,292	:	DECISION ON PETITION
Filed: March 23, 2005	:	
Attorney Docket No. COE-592	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed March 9, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 23, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 24, 2008. A Notice of Abandonment was mailed on February 3, 2009.

The Relevant Portion of the Manual of Patent Examining Procedure (MPEP)

Section 711.03(c) (I)(A) sets forth, in toto:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of

whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Analysis

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).

With this petition, petitioner has submitted, inter alia, an amendment, the petition fee and a statement facts. Petitioner has met requirements (1) and (2) of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the third requirement of Rule 1.137(a), the record does not support a finding that the entire period of delay was unavoidable. Petitioner argues that the Office action was not received and that no indication of its existence was entered in Private PAIR until 02/02/09. In support, petitioner has provided affidavits of the patent paralegal and patent attorney responding for responding to all Office actions.

A review of the written record indicates no irregularity in the mailing of the Office action on July 23, 2008. Therefore, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to and received by the practitioner at the address of record.

Petitioner's assertion of non-receipt has not been adequately supported by the affidavits provided on March 9, 2009, in that petitioner has not (1) provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO; (2) established that the docketing system is sufficiently reliable; (3) provided a statement as to any search that might have been performed of the file jacket (or equivalent) of the application contents, in order to determine if the Office Action was received; (4) provided a copy of the record(s) used by practitioner where the allegedly non received Office Action would have been entered had it been received; (5) provided a copy of the master docket, or stated that no such mater docket exists and submitted other forms of evidence referenced in the MPEP section reproduced above.

It is noted for the record that the Office action of July 23, 2008 was upload and available for viewing in the electronic file on July 24, 2008.

The showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Accordingly, the petition cannot be granted.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770 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 delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. 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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ATTN: CESPA-OC
4101 JEFFERSON PL. NE
ALBUQUERQUE, NM 87109-3434

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JUL 30 2009

OFFICE OF PETITIONS

In re Application of
Norbert E. Yankielun
Application No. 11/086,292
Filed: March 23, 2005
Attorney Docket No. C)E-592

ON PETITION

This is a decision in response to the petition, filed June 4, 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 July 23, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 24, 2008. A Notice of Abandonment was mailed on February 3, 2009. On June 4, 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 an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received March 9, 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

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ATTN: CEHEC-OC
7701 TELEGRAPH ROAD
ALEXANDRIA VA 22315-3860

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OFFICE OF PETITIONS

In re Application of	:	
YANKIELUN et al.	:	
Application No.: 11/086,311	:	ON PETITION
Filing Date: 03/23/2005	:	
Attorney Docket No. COE-584	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on August 28, 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(a)." This is not a final agency decision.

This application became abandoned on March 12, 2008, for failure to timely file a response to the Office communication mailed on February 11, 2008, which set a shortened period of one month or thirty days, whichever was longer, to reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on August 26, 2008.

Petitioner asserts unavoidable delay in that the Office communication of February 11, 2008, was never received.

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.

(2) the petition fee as set forth in § 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 this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to 1.137(d).

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail or facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

---

[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."

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

With regards to the assertion that the Office communication was not received, MPEP 711.03(c) states:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail

> date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

The petition must be dismissed because petitioner has not provided a copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received. Furthermore, petitioner did not provide a statement from the practitioner stating that a search of the practitioner's record(s) indicates that the Office action was not received. Lastly, petitioner did not describe the system used for docketing an Office action received at the correspondence address of record or that the docketing system is sufficiently reliable.

A copy of the master docket report showing all replies docketed for a date one month from the mail date of the nonreceived Office communication must be submitted as documentary proof of nonreceipt of the Office communication. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

If petitioner can provide a showing, as described above, that the Office communication mailed on February 11, 2008, was not received, petitioner should file a renewed petition under 37 CFR 1.137(a), accompanied by such proof of nonreceipt of the Office communication.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP

does not constitute an "unavoidable" delay.[3] Moreover, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4]

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

If petitioner is unable to provide the information above, petitioner may wish to consider filing a petition under 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 § 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 as set forth in § 1.20(d)) required pursuant to 37 CFR 1.137(d).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that

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[3] Id.

[4] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

The $510.00 fee for filing the petition under 37 CFR 1.137(a) will be charged to the Deposit Account as previously authorized.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Albuquerque Engineer District
ATTN: CESPA-OC
4101 Jefferson Pl. NE
Albuquerque NM 87109-3434

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JAN 26 2010

In re Application of	:	
YANKIELUN et al.	:	
Application No.: 11/086,311	:	ON PETITION
Filing Date: 03/23/2005	:	
Attorney Docket No. COE-584	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on July 17, 2009, to revive the above-identified application.

This application became abandoned on March 12, 2008, for failure to timely file a response to the Office communication mailed on February 11, 2008, which set a shortened period of one month or thirty days, whichever was longer, to reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on August 26, 2008.

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**.

This matter is being referred to the Technology Center Art Unit 1796 for further action on the reply filed August 28, 2008.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/23/09

TO SPE OF : ART UNIT 2833 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/086,343 Patent No.: 7,458,856
Attn: Gary Paumen

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)
South Tower - 9A22
Palm Location 7580

*ATTN: Ok to enter changes to claims 5, 6, and 22 as requested in COCIN?

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	Approved	All changes apply.
	Approved in Part	Specify below which changes do not apply.
	Denied	State the reasons for denial below.

Comments: OK to enter

SPE /renee s luebke/ AU_2833__
SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **1/23/09**

TO SPE OF : ART UNIT **2833 (2800)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/086,343** Patent No.: **7,458,856**
Attn: Gary Paumen

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)
South Tower - 9A22
Palm Location 7580

***ATTN: Ok to enter changes to claims 5, 6, and 22 as requested in COCIN?**

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X	**Approved**	**All** changes apply.
	Approved in Part	Specify below which changes **do not** apply.
	Denied	State the reasons for denial below.

Comments: OK to enter

SPE **/renee s luebke/** AU **2833**
SPE **Art Unit**

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DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
NEW YORK NY 10036-2714

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Shinya Osugi	:	
Application No. 11/086,348	:	DECISION GRANTING PETITION
Filed: March 23, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. W1878.0208	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 13, 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 November 26, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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1940 DUKE STREET
ALEXANDRIA VA 22314

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AUG 25 2008

In re Application of	:	
Kobayashi et al.	:	
Application No. 11/086362	:	DECISION
Filing or 371(c) Date: 03/23/2005	:	ON PETITION
Patent No.: 7010800	:	
Issue Date: 03/23/2005	:	
Attorney Docket Number: 267771US6CONT	:	

This is a decision on the "Request to Correct Assignee Under 37 CFR 3.81(b)," filed February 7, 2007, to correct the name of the assignee on the front page of the above-identified patent, and to correct additional errors putatively the fault of this Office, by way of a Certificate of Correction. The delay in treating this petition is regretted.

The Petition is **granted to the extent indicated herein**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and an authorization to charge the processing fee. Further, Office assignment records reflect that SONY Corporation is the assignee of record[1]. As the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to correct the name of the assignee on the front page of the above-identified patent, to be processed.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for consideration of the additional errors putatively the fault of this Office that were included on the Certificate of Correction filed with the present petition on February 7, 2007.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[1] While no assignment was recorded for the present application, the present application is a continuation of application 08/696,891, which contains an assignment to SONY Corporation. See MPEP 306.

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LAW OFFICES OF JAMES J. RALABATE
5792 MAIN ST.
WILLIAMSVILLE, NY 14221

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OFFICE OF PETITIONS

In re Application of	:	
Maddox et al.	:	DECISION ON PETITION
Application No. 11/086,394	:	TO WITHDRAW
Filed: March 22, 2005	:	FROM RECORD
Attorney Docket No. XIP223	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed August 16, 2005.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of 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 reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request does not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries should be directed to the Technology Center.

for David Bucci
Petitions Examiner
Office of Petitions

Cc:

XYBERNAUT CORPORATION
ATTN: CHRISTOPHER TUCKER, PATENT AGENT
SUITE 550, HYATT PLAZA
12701 FAIR LAKES CIRCLE
FAIRFAX, VA 22033

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LINIAK, BERENATO & WHITE
6550 Rock Spring Drive, Suite 240
Bethesda MD 20817

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Akito **TAKEGAWA**	:	
Application No. 11/086,402	:	DECISION ON PETITION
Filed: March 23, 2005	:	TO WITHDRAW
Attorney Docket No. 1203.092	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

RADER FISHMAN & GRAUER PLLC
1233 20TH STREET NW, SUITE 501
WASHINGTON, DC 20036

In re Application of	:	
NAKAJIMA, et al.	:	
Application No. 11/086,433	:	DECISION GRANTING PETITION
Filed: March 23, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **SON-2281/CON**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 1, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 9, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2629 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Paper No.

GENERAL MOTORS CORPORATION
LEGAL STAFF
MAIL CODE 482-C23-B21
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DETROIT MI 48265-3000

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NOV 18 2008

In re Application of	:	
Geoffery P. McKnight et al.	:	
Application No. 11/086,470	:	DECISION ON TWO PETITIONS
Filed: November 15, 2004	:	PURSUANT TO
Attorney Docket No.: GP-304312-	:	37 C.F.R. §§ 1.137(A) AND
RD-KAM	:	1.181
Title: AIRFLOW CONTROL DEVICES	:	
BASED ON ACTIVE MATERIALS	:	

This is a decision on the two petitions pursuant to 37 C.F.R. §§ 1.137(a) and 1.181, seeking the revival of the above-identified application and the withdrawal of the holding of abandonment, respectively. These petitions were concurrently filed on October 16, 2008

The petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED.**

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed February 11, 2008, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2008. A Notice of abandonment was mailed on September 8, 2008.

Applicant is the Assignee, General Motors Corporation, located in Detroit, Michigan.

This petition was filed by Mr. William J. Jacob (Petitioner), an attorney who is not of record and is located in Kansas City, Missouri.

With this petition, Petitioner has provided a plurality of exhibits. However, none of these submissions have been identified as an exhibit, and none has been numbered (although Petitioner has referred to them as Exhibits 1-5). When submitting exhibits to the Office in the future, Petitioner may wish to **strongly** consider labeling any exhibit as such, and placing an exhibit identifier (such as "Exhibit 2") on the submission, so as to clearly identify the same.

The Relevant Portion of the MPEP

Section 711.03(c)(I)(A) sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by

the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Analysis of the Petition pursuant to 37 C.F.R. § 1.181

With this petition, Petitioner has asserted that Applicant did not receive the restriction requirement,[1] however it is noted that Petitioner does not have firsthand knowledge of this fact.

Petitioner has further asserted that he did not receive the restriction requirement,[2] and that it is "customary…for Applicant to forward Office Actions received from the Office, within approximately five days…"[3]

Petitioner has indicated that a search of the file jacket and docket records indicates that the Office action was not received,[4] and has provided a copy of the same.[5] Petitioner has

1 Petition, page 1, numbered paragraph 2.
2 Petition, page 2, numbered paragraph 10.
3 Id.
4 Petition, page 2, numbered paragraph 11.

further provided a copy of his "on-line docket records"[6] that were forwarded to him by the Applicant, which consists of a series of e-mails. Petitioner has further included a one-page print-out of a computer screen, that contains the header "Docketing System," and has the field entitled "miscellaneous" highlighted: the petition makes no mention of this submission, and as such, the relevance of this entry cannot be discerned by the undersigned.

Clearly, Petitioner is attempting to meet the requirements of Delgar v. Schulyer, as delineated in MPEP § 711.03(c)(I)(A), reproduced above. However, the Delgar requirements are not relevant to the pertinent case, in that the Office did not mail the relevant communication to Petitioner: the restriction requirement was mailed to the address of record, which is the Applicant. In Delgar, the Office mailed a notice of allowance to the applicant, and the Delgar showing provides a mechanism by which applicants can establish that a mailing was not received from the Office. Petitioner is attempting to establish that he did not receive a particular mailing from the Applicant, a situation that is outside of the scope of Delgar.

Neither Petitioner's docket records, not a file jacket that he maintains can establish that the Applicant did not receive a particular mailing. It follows that the record does not support a finding that the holding of abandonment should be withdrawn. Petitioner has asserted that Applicant failed to receive the relevant communication, but has provided no evidence to support this assertion, of which he does not have first-hand knowledge. Petitioner has further asserted that he failed to receive a copy of this mailing from Applicant and has provided evidence to support this assertion, however his failure to receive a mailing from the Applicant cannot give rise to a finding that the holding of abandonment should be withdrawn.

Analysis of the Petition pursuant to 37 C.F.R. § 1.137(a)

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

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5 Presumably, he is referring to a file jacket that he maintains, and not a file jacket that is maintained by Applicant.
6 Id.

(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an election of species and the petition fee. As such, Petitioner has met requirements (1) and (2) of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the third requirement of Rule 1.137(a), the record does not support a finding that the entire period of delay was unavoidable, as will now be pointed out.

Petitioner has not established that the restriction requirement of February 11, 2008 has not been received, pursuant to the discussion above. As such, it has not been established that the entire period of delay was unavoidable.

Conclusion

The time period for filing a renewed petition pursuant to 37 C.F.R. § 1.181 is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of the decision on the petition pursuant to 37 C.F.R. § 1.181 is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

If reconsideration of the decision on the petition pursuant to 37 C.F.R. § 1.137(a) is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. **Extensions of time under 37 C.F.R. § 1.136(a) are permitted.** The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may file a petition pursuant to 37 C.F.R. § 1.137(b).

Petitioner will note that a third option is to concurrently file both a renewed petition pursuant to Rules 1.181 and/or 1.137(a) and a petition pursuant to Rule 1.137(b). If either renewed petition is granted, the fee that is associated with the petition pursuant to Rule 1.137(b) will be refunded to Petitioner.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[7] hand-delivery,[8] or facsimile.[9] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[11] All other

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7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
9 (571) 273-8300- please note this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
11 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is

inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: William J. Jacob
324 E. 11th Street, Suite 101
Kansas City, MO 64106

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reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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LEGAL STAFF
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P O BOX 300
DETROIT MI 48265-3000

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FEB 17 2009
OFFICE OF PETITIONS

In re Application of	:	
Geoffery P. McKnight et al.	:	
Application No. 11/086,470	:	DECISION ON TWO RENEWED
Filed: November 15, 2004	:	PETITIONS PURSUANT TO
Attorney Docket No.: GP-304312-	:	37 C.F.R. §§ 1.137(A) AND
RD-KAM	:	1.181 AND ORIGINAL PETITION
Title: AIRFLOW CONTROL DEVICES	:	PURSUANT TO 37 C.F.R.
BASED ON ACTIVE MATERIALS	:	§§ 1.137(B)

This is a decision on the two renewed petitions pursuant to 37 C.F.R. §§ 1.137(a) and 1.181, seeking the revival of the above-identified application and the withdrawal of the holding of abandonment, respectively. This is also a decision on petition pursuant to 37 C.F.R. § 1.137(b), seeking the revival of the above-identified application. These three petitions were concurrently filed on January 20, 2009.

The renewed petition pursuant to 37 C.F.R. § 1.181 is **DISMISSED**.

The renewed petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

Background and Procedural History

Original petitions pursuant to 37 C.F.R. §§ 1.137(a) and 1.181 were filed on October 16, 2008, and each was dismissed via the mailing of a decision on November 18, 2008.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed February 11, 2008, which set a shortened statutory period to reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 12, 2008. A Notice of abandonment was mailed on September 8, 2008.

Applicant is the Assignee, General Motors Corporation, located in Detroit, Michigan.

Each of the original and the renewed petitions was filed by Mr. William J. Jacob (Petitioner), an attorney who is not of record and is located in Kansas City, Missouri.

The Relevant Portion of the MPEP

Section 711.03(c)(I)(A) sets forth, *in toto*:

> In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).
>
> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.
>
> The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).
>
> Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

Analysis of the Renewed Petition pursuant to 37 C.F.R. § 1.181

With both the original and this renewed petition, Petitioner has asserted that Applicant did not receive the restriction requirement. However as was noted in the decision on the original petition, Petitioner does not have firsthand knowledge of this fact.

The decision indicated, *in pertinent part*:

> Clearly, Petitioner is attempting to meet the requirements of Delgar v. Schulyer, as delineated in MPEP § 711.03(c)(I)(A), reproduced above. However, the Delgar requirements are not relevant to the pertinent case, in that the Office did not mail the relevant communication to Petitioner: the restriction requirement was mailed to the address of record, which is the

> Applicant (emphasis included). In Delgar, the Office mailed a notice of allowance to the applicant, and the Delgar showing provides a mechanism by which applicants can establish that a mailing was not received from the Office. Petitioner is attempting to establish that he did not receive a particular mailing from the Applicant, a situation that is outside of the scope of Delgar.
>
> Neither Petitioner's docket records, not a file jacket that he maintains can establish that the Applicant did not receive a particular mailing. It follows that the record does not support a finding that the holding of abandonment should be withdrawn. Petitioner has asserted that Applicant failed to receive the relevant communication, but has provided no evidence to support this assertion, of which he does not have first-hand knowledge. Petitioner has further asserted that he failed to receive a copy of this mailing from Applicant and has provided evidence to support this assertion, however his failure to receive a mailing from the Applicant cannot give rise to a finding that the holding of abandonment should be withdrawn.
>
> Decision on original petition, page 4.

With this renewed petition, Petitioner has set forth "Applicant, for its description of the system under Delgar, hereby states that it utilizes a customized web-based docketing and data/file management system," into which Office Actions are entered upon receipt.[1] However, this petition was not filed by the Applicant, but rather an attorney who is not of record and acts in a representative capacity, pursuant to 37 C.F.R. § 1.34.

Petitioner has asserted that the relevant Office communication was not received at the correspondence address of record, however, as was noted in the decision on the original petition, "Petitioner does not have firsthand knowledge of this fact."[2] The electronic file has been reviewed, and a statement from the Applicant has not been located with this renewed petition. As such, Petitioner's assertion has not been adequately supported by a statement by one having firsthand knowledge of the facts contained therein.

It follows that the record does not support a finding that the holding of abandonment should be withdrawn.

It is noted in passing that that Petitioner has asserted that the Applicant enters all Office actions into the docketing system, to which Petitioner has online access. However, Petitioner has not asserted that he has inspected the file jacket or the application

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1 Renewed petition, page 2.
2 Decision on original petition, page 3.

contents that are maintained by Applicant, presumably in Michigan.[3]

Analysis of the Renewed Petition pursuant to 37 C.F.R. § 1.137(a)

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With the original petition, Petitioner submitted an election of species and the petition fee. As such, requirements (1) and (2) of Rule 1.137(a) were met with the original petition. The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the third requirement of Rule 1.137(a), the record does not support a finding that the entire period of delay was unavoidable, as will now be pointed out.

With this renewed petition, Petitioner has not established that the restriction requirement of February 11, 2008 has not been received, pursuant to the discussion above. As such, it has not been established that the entire period of delay was unavoidable.

Analysis of the Petition pursuant to 37 C.F.R. § 1.137(b)

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

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3 The record is unclear as to whether or not a physical file jacket and a physical application is maintained by the Applicant, in addition to the scanned and uploaded documents. See paragraph 4 of the renewed petition.

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

Moreover, 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.[4] In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

With this petition, Petitioner has included the petition fee and a statement that is being construed as the proper statement of unintentional delay. The required reply was provided on October 16, 2008.

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4 See 37 C.F.R. § 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

Conclusion

It is noted that the address listed on the petition differs from the address of record. A Change of Address request was filed on January 20, 2009. This request has not been entered, as it cannot be effectuated - see 37 C.F.R. § 1.33(a)(2). It is noted that a fully-executed declaration was deposited on May 18, 2005, and as has been indicated previously, Petitioner is not of record.

If Petitioner desires to receive future correspondence regarding this application, a properly executed change of correspondence address must be submitted by any party identified in Rule 1.33(b)(1) or (3). A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival or withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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 election of species, received on October 16, 2008, can receive further processing in due course.**

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[5] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: William J. Jacob
324 E. 11th Street, Suite 101
Kansas City, MO 64106

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA PA 19103

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of :
Frank H. SCHAEDLICH, et al :
Application No. 11/086,480 : NOTICE
Filed: March 22, 2005 :
Attorney Docket No. 2005-043 :

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 is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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JUN 0 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

In re Application of :

Joseph SALESKY, et al. :
Application No. 11/086,506 :
Filed: March 21, 2005 :
For: REAL-TIME, MULTI-POINT, MULTI-SPEED, :
MULTI-STREAM SCALABLE COMPUTER :
NETWORK COMMUNICATIONS SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 2, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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MAIL

MAY 2 7 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

In re Application of :

Joseph SALESKY, et al. :
Application No. 11/086,507 :
Filed: March 21, 2005 :
For: REAL-TIME, MULTI-POINT, MULTI-SPEED, :
MULTI-STREAM SCALABLE COMPUTER :
NETWORK COMMUNICATIONS SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed May 2, 2005 under 37 CFR §1.102(d) to make the application special.

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) that a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
(3) that he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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JUL 20 2007

TECHNOLOGY CENTER 2100

Brian E. Jones, Esq.
WESTERN DIGITAL TECHNOLOGIES, INC.
20511 Lake Forest Drive
Lake Forest, CA 92630

In re Application of: Quoc Dang et al.
Application No. 11/086,513
Filed: March 22, 2005
Attorney Docket No.: K35A1546
For: DISK DRIVE EMPLOYING STREAM DETECTION ENGINE TO ENHANCE CACHE MANAGEMENT POLICY

DECISION ON PETITION
UNDER 37 CFR 1.181
TO WITHDRAW REQUIREMENT
FOR INFORMATION

This is a decision on the petition filed on June 29, 2007, under 37 CFR 1.181 to invoke Supervisory Authority with respect to the Office action mailed on May 1, 2007, and requests that the request (requirement) for information be withdrawn as improper.

The Petition is **GRANTED.**

RECENT PROSECUTION HISTORY

May 1, 2007	Non-Final Action (FAOM) mailed, including a Request for Information, citing §37CFR 1.56
June 29, 2007	Instant Petition filed to withdraw Requirement for information, possibly under §37CFR1.105.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 request the request(requirement) made in the Non-Final action mailed on May 1, 2007 be withdrawn.

OPINION

Petitioner presents the following arguments in support of the position that the requirement under 37 CFR 1.105 was improper:

1. Examiner while seeming to require information under 37CFR1.105, does not clearly indicate that the requirement is being made under 37 CFR 1.105, citing 37 CFR 1.56 instead.

2. The requirement to provide
   (1)any documentation known to qualify as prior art under 35 U.S.C. sections 102 or 103 with respect to the invention as defined by the independent claims and a discussion of relevant passages with respect to the claims;
   (2) in the event documentation is determined to qualify as prior art, a discussion of relevant passages with respect to the claims must be provided.
   (3) identification of all independent claim limitations corresponding to prior art elements in the background documentation;
   (4) the request for information is vague and not focused, and very broad in scope

   imposes a substantial burden on the applicant, and imposes a duty on the applicant which is inconsistent with 37 CFR 1.105.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

MPEP 704.11 states in part:

> There must be a reasonable basis for the information required that would aid in the examination of an application or treatment of some matter. A requirement for information under 37 CFR 1.105 places a substantial burden on the applicant that is to be minimized by clearly focusing the reason for the requirement and the scope of the expected response. Thus, the scope of the requirement should be narrowly defined, and a requirement under 37 CFR 1.105 may only be made when the examiner has a reasonable basis for requiring information. A requirement for information necessary for finding prior art is not a substitute for the examiner performing a search of the relevant prior art; the examiner must make a search of the art according to MPEP § 704.01 and §§ 904 – 904.03.

On careful review of the prosecution history, it is clear that the requirements "to provide any documentation known to qualify as prior art under 35 U.S.C. sections 102 or 103 with respect to the invention as defined by the independent claims and a discussion of relevant passages with respect to the claims" as stated in the requirement for information in the office action mailed on May 1, 2007, is neither consistent with 37 CFR 1.105 nor 37 CFR 1.56. Therefore, the requirement for information required in the office action mailed May 1, 2007 has been vacated. Examiner is referred to MPEP section 704.11(a) for examples of information that may be reasonably required.

Accordingly, the Petition is **GRANTED**.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44TH FLOOR
NEW YORK, NY 10112-4498

Mail Date: 04/20/2010

Applicant	: Sylvestre Jobic	: DECISION ON REQUEST FOR
Patent Number	: 7604813	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,514	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **713** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JAN 04 2010

OFFICE OF PETITIONS

Foley & Lardner, LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202-5306

In re Application of	:	
Charles J. Schaeffer et al.	:	
Application No. 11/086,525	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO WITHDRAW
Attorney Docket No. JCI-464	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 16, 2009.

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 Foley & Lardner has been revoked by the assignee of the patent application on October 14, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below listed until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Lathrop & & Clark, LLP
740 Regent Street Suite 400
P.O. Box 1507
Madison, WI 53701-1507

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ECKERT SEAMANS CHERIN & MELLOTT, LLC.
600 GRANT STREET, 44TH FLOOR
PITTSBURGH, PA 15219

Mail Date: 05/04/2010

Applicant	: Joey M.W. Chow	: DECISION ON REQUEST FOR
Patent Number	: 7609634	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/086,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1038** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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: 04/21/2010

Applicant	: Bruce Matthew Dunham	: DECISION ON REQUEST FOR
Patent Number	: 7623272	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,536	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1213** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Tamas Major	: DECISION ON REQUEST FOR
Patent Number	: 7609702	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,557	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1048** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Joong Hee Lee	: DECISION ON REQUEST FOR
Patent Number	: 7624587	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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JUL 22 2005

OFFICE OF PETITIONS

In re Application of :
Jones, et al. :
Application No. 11/086,575 : ON PETITION
Filed: March 23, 2005 :
Attorney Docket No. 07810.0107-01 :

This is a decision on the petition under 37 CFR 1.53, filed June 17, 2005, which has been treated as a petition under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of March 23, 2005, including eight (8) sheets of drawings.

The application was submitted on March 23, 2005. However, on April 20, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application," (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on June 17, 2005, the instant petition, an amendment and eight (8) sheets of drawings were submitted.

Petitioner states:

> "The [11/086,]575 application was filed under 37 C.F.R. 1 .53(b) as a continuation application, and claimed continuation status from parent application No. 10/233,599, filed September 4, 2002 ("the parent application"), as shown on the application transmittal attached hereto as Exhibit C.
>
> (3) The '575 application expressly incorporated the complete disclosure of the parent application by reference, as shown on page 1 of the application transmittal (Exhibit C) and page 2 of the preliminary amendment filed concurrently with the '575 application, attached hereto as Exhibit D.
>
> (4) Figures 1 through 8, appearing on eight sheets attached hereto as Exhibit E, are copies of Figures 1 through 8 of the parent application, attached as Exhibit F. Whether or not Figures 1 through 8 were among the papers filed on March 23, 2005, is not critical in this instance because they were expressly incorporated by reference on that date, as shown on page 2 of the Preliminary Amendment, attached as Exhibit D filed concurrently with the '575 application."

Petitioner requests the use of the incorporation by reference statement found on the Utility Patent Application Transmittal to incorporate-by-reference the drawings of prior application no. 10/233,599, filed September 4, 2002, in order to accord the above-identified application a filing date of March 23, 2005.

MPEP 201.06(c) states:

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

Petitioner has submitted the required petition, petition fee, and an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement.

The petition is granted.

Based on petitioners' representation that the drawings supplied with the petition are a part of the disclosure of prior application no. 10/233,599 and that the entire disclosure of prior application no. 10/233,599 was specifically incorporated by reference in the present application on March 23, 2005, it appears that the drawings were present in the Office on March 23, 2005, albeit in the file of another application, i.e., application no. 10/233,599. Therefore, on petition, the application may be granted the requested filing date of March 23, 2005 and the amendment will be entered.

Of course, the primary examiner is expected to compare the drawings supplied on March 23, 2005, to the disclosure of prior application no. 10/233,599 in order to verify that the drawings are, in fact, part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 23, 2005, using the drawings supplied on June 17, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-2-10

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/086577 Patent No.: 7510561

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check figs.

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

Ennis Young
Certificates of Correction Branch
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

ATT ☒ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes do not apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

ANHTUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
SPE

3731
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTOL-306 (REV. 7/03)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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JUL 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Green et al.	:	
Application No. 11/086,581	:	ON PETITION
Filed: March 23, 2005	:	
Attorney Docket No. 850-24	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 19, 2006 and July 1, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes Declarations from the applicants, James A. Green, Sr. and Austin S. Coker, Jr. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2618 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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CENTRAL FAX CENTER
MAY 17 2010

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

A LIMITED LIABILITY PARTNERSHIP INCLUDING LAW CORPORATIONS

TELEPHONE (206) 292-8600
FACSIMILE (206) 292-8606
BSTZ_MAIL@BSTZ.COM
WWW.BSTZ.COM

INTELLECTUAL PROPERTY LAW
TWO UNION SQUARE, SUITE 3000
601 UNION STREET
SEATTLE, WA 98101

OTHER OFFICES
LOS ANGELES, CA
SILICON VALLEY/SUNNYVALE, CA
COSTA MESA/ORANGE COUNTY, CA
BEAVERTON, OR
DENVER, CO

FACSIMILE TRANSMITTAL SHEET

Deliver To:	Office of Petitions		
Firm Name:	U.S. PATENT TRADEMARK OFFICE		
Fax Number:	(571) 273-8300	**Telephone No.:**	
From:	Andrew J. Cameron	**Reg. No.:**	50,281
Date:	May 17, 2010	**Time:**	
BSTZ Matter No.	5510P091	**No. of pages including cover sheet:**	7
In Re Patent Application of:	Chan Woong Park		
Application No.:	11/086,600 (Patent No. 7,414,862)		
Filed:	March 21, 2005		
Title:	METHOD AND APPARATUS FOR REGULATING AN OUTPUT CURRENT FROM A POWER CONVERTER		

Enclosed are the following documents:

- **Facsimile Transmittal**
- **Petition under 37 CFR 3.81(b)**
- **Notice of Recordation of Assignment Document**
- **Request for Certificate of Correction under 37 CFR § 1.323**
- **Certificate of Correction**

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contain information from the law firm of Blakely Sokoloff Taylor & Zafman LLP that is confidential or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you. IF YOU EXPERIENCE ANY DIFFICULTY IN RECEIVING THE ABOVE PAGES, PLEASE CALL (206) 292-8600 AND ASK FOR THE OPERATOR NAMED ABOVE.

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Attorney Docket No.: 5510P091 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Chan Woong Park	Examiner: Adolf D. Berhane
Patent No.: 7,414,862	Art Unit: 2838
Serial No.: 11/086,600	Confirmation No.: 6372
Filed: March 21, 2005	
For: METHOD AND APPARATUS FOR REGULATING AN OUTPUT CURRENT FROM A POWER CONVERTER	

Facsimile No.: (571) 273-8300
ATTN: Office of Petitions

PETITION UNDER 37 CFR 3.81(b)

Dear Sir:

The patentee respectfully petitions pursuant to 37 CFR § 3.81(b) that the above-referenced patent be corrected to state the name of the assignee. The assignment was submitted for recordation along with the filing of the application (i.e., Serial No. 11/086,600) on March 21, 2005. As shown in the attached Notice of Recordation of Assignment Document, the assignment was recorded on March 21, 2005. Thus, the assignment was submitted for recordation before issuance of the patent.

The patentee submitted an Issue Fee Transmittal form PTOL-85B on July 7, 2008. However, the assignee name was inadvertently omitted from the form. Accordingly, the patentee submits herewith a Request For Certificate of Correction under § 1.323 with an accompanying fee as set for in § 1.20(a).

05/19/2010 HMARZI1 00000009 022666 7414862
01 FC:1811 100.00 DA

05/19/2010 HMARZI1 00000014 022666 11086600
01 FC:1464 130.00 DA

PAGE 2/7 * RCVD AT 5/17/2010 4:45:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2062928606 * DURATION (mm-ss):01-24

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CENTRAL FAX CENTER
MAY 17 2010

The U.S. Patent Office is hereby authorized to charge Deposit Account No. 02-2666 in the amount of $130.00 to cover the processing fee for this petition as set forth in 1.17(i). Please credit any overpayment to the same deposit account.

Respectfully submitted,
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Dated: 5-17-2010

Andrew J. Cameron
Reg. No. 50,281

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on:

Date of Transmission: May 17, 2010

Kristy A. Marvel
(Typed or printed name of person transmitting paper)

(Signature of person transmitting paper)

PAGE 3/7 * RCVD AT 5/17/2010 4:45:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2062928606 * DURATION (mm-ss):01-24

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

AUGUST 17, 2005

PTAS

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
JAMES Y. GO
12400 WILSHIRE BOULEVARD, 7TH FLOOR
LOS ANGELES, CALIFORNIA 90025

D2972362A

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, MAIL STOP: ASSIGNMENT SERVICES DIVISION, P.O. BOX 1450, ALEXANDRIA, VA 22313.

RECORDATION DATE: 03/21/2005 REEL/FRAME: 016411/0685
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).
DOCKET NUMBER: 005510.P091

ASSIGNOR:
PARK, CHAN WOONG DOC DATE: 03/21/2005

ASSIGNEE:
POWER INTEGRATIONS INC.
5245 HELLYER AVENUE
SAN JOSE, CALIFORNIA 95138

SERIAL NUMBER: 11086600 FILING DATE: 03/21/2005
PATENT NUMBER: ISSUE DATE:
TITLE: METHOD AND APPARATUS FOR REGULATING AN OUTPUT CURRENT FROM A POWER CONVERTER

016411/0685 PAGE 2

TONYA LEE, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

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MAY 17 2010

Attorney Docket No.: 5510P091 Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Chan Woong Park	Examiner: Adolf D. Berhane
Patent No.: 7,414,862	Art Unit: 2838
Serial No.: 11/086,600	Confirmation No.: 6372
Filed: March 21, 2005	
For: METHOD AND APPARATUS FOR REGULATING AN OUTPUT CURRENT FROM A POWER CONVERTER	

Mail Stop Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323

Dear Sir:

The applicant respectfully requests pursuant to 37 CFR § 1.323 that the above-referenced patent be corrected to state the name of the assignee. The assignment was submitted for recordation before issuance of the patent. Patentee submits that the omission of the name of the assignee is an error and hereby requests that the enclosed Certificate of Correction be issued.

The U.S. Patent Office is hereby authorized to charge Deposit Account No. 02-2666 in the amount of $100.00 to cover the Post Issuance fee set forth in 1.20(a). Please credit any overpayment to the same deposit account.

Respectfully submitted,
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

Dated: 5-17-2010

Andrew J. Cameron
Reg. No. 50,281

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on:
Date of Transmission: May 17, 2010

Kristy A. Marvel
(Typed or printed name of person transmitting paper)

(Signature of person transmitting paper)

PAGE 6/7 * RCVD AT 5/17/2010 4:45:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2062928606 * DURATION (mm-ss):01-24

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 7,414,862 B2

DATED: August 19, 2008

INVENTOR(S): Chan Woong Park

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page

On the title page, please insert the Assignee --Power Integrations, Inc., San Jose, CA (US)--.

MAILING ADDRESS OF SENDER:
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

PATENT NO. 7,414,862 B2

Certificate of Correction (PTO Form 1050)-Amended

PAGE 7/7 * RCVD AT 5/17/2010 4:45:00 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/9 * DNIS:2738300 * CSID:2062928606 * DURATION (mm-ss):01-24

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Paper No.

BARNES & THORNBURG
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Ananthanarayanan et al.	:	DECISION ON
Application No. 11/086,608	:	PETITION
Filed: March 22, 2005	:	
Atty Docket No. 3220-77527	:	

This is a decision on the PETITION TO REVIVE UNDER 37 CFR 1.137(b) (UNINTENTIONAL) filed October 28, 2005.

The petition is **DISMISSED AS MOOT**.

A "Notice to File Missing Parts of Application," was mailed on April 19, 2005, in the above-identified application. The Notice required applicants to submit an executed oath or declaration and the surcharge for its late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

On October 28, 2005, applicants filed the instant petition, an executed declaration, and a petition for extension of time within the fourth month (and extension fee), including an authorization to charge any required fees to Deposit Account No. 10-0435. The petition was filed on the basis that the period for reply (with extensions of time) had expired on October 19, 2005, and thus, the application was abandoned for failure to reply within the time period.

However, this interpretation of the status of the application is incorrect. As stated in MPEP 710.02(d)(explaining the difference between shortened statutory periods and time limits):

> The 2-month time period for reply to A Notice to File Missing Parts of an Application is not identified on the Notice as a statutory period subject to 35 U.S.C. 133. Thus, extensions of time of up to 5 months under 37 CFR 1.136(a), followed by additional time under 37 CFR 1.136(b), when appropriate, are permitted.

The five-month extension of time fee of $2,160 (instead of the four-month extension of time fee of $1,590), and payment of the late surcharge ($130) have been charged to petitioner's Deposit Account. Thus, it is concluded that the response filed October 28, 2005 was a timely response.

The petition fee of $1,500 has been refunded as consideration of the petition under § 1.137(b) is unnecessary.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application is, thereby, forwarded to OIPE for processing of the response timely filed October 28, 2005.

Telephone inquiries regarding 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
Alexandria, Virginia 22313-1450
www.uspto.gov

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO, CA 94111

Mail Date: 04/20/2010

Applicant	: Essam Enan	: DECISION ON REQUEST FOR
Patent Number	: 7622269	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **851** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

20

Attorney Docket No. T9214.C.DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	OREN V. PETERSON	
TITLE:	THERMAL SYNTHESIS PRODUCTION OF STEEL	
SERIAL NO.:	11/086630	
FILED:		PETITION TO MAKE SPECIAL
EXAMINER:		
ART UNIT:	1742	

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This petition to make special is filed under 37 C.F.R. § 1.102 and MPEP § 708.02 (IV), for the purpose of expediting examination of the above-captioned application.

Fee

No fee is required as set forth in 37 C.F.R. § 1.102(c).

CERTIFICATE OF EXPRESS MAILING

DATE OF MAILING March 21, 2005 EXPRESS MAIL LABEL NO: EV 442106255 US

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

03/25/2005 HMARZI1 00000072 11086630

01 FC:1464 130.00 OP

Karl R. Cannon
Attorney Registration No. 36,468
Attorney for Applicant

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 APR 27 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/086,634	03/22/2005	Katsuhisa Ogawa	10009525US01	5565

34904 7590 10/24/2007
CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

EXAMINER
BARRON JR, GILBERTO

ART UNIT	PAPER NUMBER
2132	

MAIL DATE	DELIVERY MODE
10/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 24 2007

TECHNOLOGY CENTER 2100

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of: OGAWA et al.
Application No. 11/086,634
Filed: March 22, 2005
For: PROVIDING APPARATUS, PROVIDING METHOD, COMMUNICATION DEVICE, COMMUNICATION METHOD, AND PROGRAM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 12, 2007, to make the above-identified application special.

The petition is **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:

A. Item 3 above. Specifically,

1) Claims correspondence table presents claims 1-5 for the instant U.S. application, while presenting claims 1-7 for the corresponding allowed claims of the corresponding Japanese application. However, it is noted that the Japanese application contain only allowed claims 1-5. The instant U.S. application, contains claims 21-27. Hence the mapping of U.S. claims to the allowed claims of the corresponding Japanese application is in error.

Applicant is requested to review the claims in view of the comments above to make sure that the claims are in compliance with guidelines set forth above for a grantable petition to make special.

B. Item 6 above. Specifically,

2) Applicant has failed to 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.

Accordingly, the Petition is **DISMISSED**.

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 Mano Padmanabhan at 571-273-4210 (RightFax) or 571-273-0308.

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
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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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MAILED

DEC 05 2007

TECHNOLOGY CENTER 2100

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of: OGAWA et al.
Application No. 11/086,634
Filed: March 22, 2005
For: PROVIDING APPARATUS, PROVIDING METHOD, COMMUNICATION DEVICE, COMMUNICATION METHOD, AND PROGRAM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 12, 2007, and the request for reconsideration of adverse decision filed November 20, 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 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
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/086,636	03/21/2005	2652	1000	K35A1587	4	12	1

CONFIRMATION NO. 5567

CORRECTED FILING RECEIPT

OC000000018230893

35219
WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DR.
E-118G
LAKE FOREST, CA 92630

Date Mailed: 03/08/2006

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)

Victor W. Santini, Cupertino, CA;
Aaron D. Little, Campbell, CA;

Assignment For Published Patent Application

WESTERN DIGITAL TECHNOLOGIES, INC., LAKE FOREST, CA

Power of Attorney: The patent practitioners associated with Customer Number **35219**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/086,636

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Disk drive including a printed circuit board assembly and a PCBA shield with tabs engaged in slots of a disk drive base

Preliminary Class

360

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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WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: RENEE QUICK
20511 LAKE FOREST DRIVE
E-118H
LAKE FOREST, CA 92630

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AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Aaron D. Little et al	:	
Application No. 11/086,637	:	ON PETITION
Filed: March 21, 2005	:	
Attorney Docket No. K35A585	:	

This is a decision on the petition under 37 CFR 1.313(a), filed August 15, 2007, to withdraw the above-identified application from issue. This is also a decision on the petition under 37 CFR 1.10(c), filed August 14, 2007, requesting that the above-identified application be accorded a filing date of March 21, 2005, rather than the presently accorded date of March 22, 2005.

The petition under 37 CFR 1.313(a) is **DISMISSED**.

The petition under 37 CFR 1.10(c) is **GRANTED**.

DISCUSSION OF PETITION UNDER 37 CFR. 1.313(a)

Petitioner requests that the present application be withdrawn from issue for consideration of the petition under 37 CFR 1.10(c) to correct the filing date of this application.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been received.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application is necessary. The mere submission of a petition for consideration of the filing date of

an application does not make withdrawal of the application from issue necessary as this has been accomplished here without withdrawing the application from issue.

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

DISCUSSION OF PETITION UNDER 37 CFR. 1.10(c)

Petitioner requests the earlier filing date of March 21, 2005, alleging that this application was deposited in Express Mail Service on March 21, 2005. In support of this allegation, the petition is accompanied by a copy of Express Mail receipt No. EV499938984US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of March 21, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on March 21, 2005.

In view of the above, the petition is **GRANTED**.

A Corrected Filing Receipt has been mailed under separate cover.

A Notice of Allowance and Fee(s) Due was mailed on June 14, 2007, which requires payment of the issue fee on or before September 14, 2007. Additionally, the concurrently mailed Notice of Allowability requires the submission of corrected replacement drawings. Failure to timely pay the issue fee and submit corrected replacement drawings will result in the abandonment of this application.

Any inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

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PATENTS+TMS, P.C.
2849 W. ARMITAGE AVENUE
CHICAGO, IL 60647

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JUL 07 2006

OFFICE OF PETITIONS

In re Application of :
John P. Moyna :
Application No. 11/086,685 : ON PETITION
Filed: March 21, 2005 :
Attorney Docket No. CJM-P-5-001 :

This is a decision on the petition under 37 CFR 1.137(b), filed on April 18, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed November 2, 2005. A Notice of Abandonment was mailed on March 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee and $300 for payment of the publication fee; (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 Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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FROM DIRECTORS OFFICE

FEB 24 2006

TECHNOLOGY CENTER 3600

BERNARD S. HOFFMAN
460 Old Town Road
Suite 7F
Port Jefferson Station, NY 11776

In re application of	:	**DECISION ON PETITION**
Vinson Flowers et al.	:	**TO MAKE SPECIAL**
Application No. 11/086,686	:	**(ACCELERATED**
Filed: March 22, 2005	:	**EXAMINATION)**
For: AESTHETICALLY PLEASING FASTENER FOR ALLOWING A DESIRED HEIGHT OF A HEM OF A PANTS LEG TO BE MAINTAINED AND REPEATEDLY CHANGED WITHOUT COMPROMISING STUCTURAL INTEGRITY OF THE PANTS LEG OR HAVING TO COOPERATE WITH A SHOE	:	

This is in response to the petition filed on May 12, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. Item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/pav: 10/28/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 17 2006

TECHNOLOGY CENTER 2600

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BERNARD S. HOFFMAN
SUITE 7F
460 OLD TOWN ROAD
PORT JEFFERSON STATION, NY 11776

In re application of	:	**DECISION ON PETITION**
Vinson Flowers et al.	:	**TO MAKE SPECIAL**
Application No. 11/086,686	:	**(ACCELERATED**
Filed: March 22, 2005	:	**EXAMINATION)**
For: AESTHETICALLY PLEASING FASTENER FOR ALLOWING A DESIRED HEIGHT OF A HEM OF A PANTS LEG TO BE MAINTAINED AND REPEATEDLY CHANGED WITHOUT COMPROMISING STRUCTURAL INTEGRITY OF THE PANTS LEG OR HAVING TO COOPERATE WITH A SHOE	:	

This is in response to the renewed petition filed on April 6, 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 now been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
571-272-6587

KJD/dew: 04/13/06

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PATENT DEPARTMENT
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
FOUR TIMES SQUARE
NEW YORK NY 10036

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
MARTINEZ, Edwin Alberto	:	
Application No. 11/086,687	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO WITHDRAW
Attorney Docket No. Aurora-002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 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 Guy Perry on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 570-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDWIN A. MARTINEZ**
EUCLIDES MORILLO #124, APT. A2B
SANTO DOMINGO, DOMINICAN REPUBLIC

cc: **AURORA WIRELESS TECHNOLOGIES, LTD**
CALLE PALAZA #23, MIRADOR NORTE
SANTO DOMINGO, DOMINICAN REPUBLIC

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TERRELL P. LEWIS
343 PALOS VERDES BOULEVARD
UNIT #8
REDONDO BEACH CA 90277

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OFFICE OF PETITIONS

In re Application of

OROZCO, et al.
Application No. 11/086,697
Filed: March 22, 2005
Attorney Docket No. MO-001

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 October 12, 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 Mr. Madariaga's California Driver License indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

PAVolpe for

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/086,748	03/23/2005	Satoshi Odamura	106671/04	5993

21254 7590 05/14/2008
MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

EXAMINER
BEAULIEU, YONEL

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
05/14/2008	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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MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC
8321 OLD COURTHOUSE ROAD
SUITE 200
VIENNA, VA 22182-3817

MAI
FROM DIRECTORS OFFICE
MAY 14 2008
TECHNOLOGY CENTER 3600

In re Application of:
SATOSHI ODAMURA
Application No. 11/086,748
Filed: March 23, 2005
Attorney Docket No. : 106671/04
For: **PORTABLE COMMUNICATION TERMINAL EQUIPPEDWITH NAVIGATION FUNCTION AND NAVIGATION METHOD OF PORTABLE COMMUNICATION TERMINAL**

DECISION ON PETITION FOR NEW OFFICE ACTION

This is in response to applicant's petition for a new Office action received January 22, 2008, and which will be treated as a Petition under 37 CFR 1.181 seeking supervisory review.

Petitioner requests to have the examiner issue a new Office action addressing new claim 26, which was added in the Amendment filed December 4, 2007.

The petition is **DISMISSED as MOOT.**

A review of the file record indicates that a non-final Office action including a rejection of claim 26 was mailed March 17, 2008.

Donald Hajec, Director
Patent Technology Center 3600
(571)-272-5150

DH/tb : 05/09/08

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P.O. Box 1450
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KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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MAR 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Jurgen Berghus, et. al.	:	
Application No. 11/086,784	:	ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. MB 466	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 23, 2007, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowability mailed April 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of one (1) sheet of replacement drawings containing Figures 1-2; (2) the petition fee of $1,500; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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HAMILTON BROOK SMITH & REYNOLDS
530 VIRGINIA RD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Prakash B. Joshi	: DECISION ON REQUEST FOR
Patent Number	: 7647763	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,789	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1024** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOLER & LARSON & ABEL L.L.P.
5000 PLAZA ON THE LAKE
STE 265
AUSTIN, TX 78746

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of
Kirk Mahoney et al.
Application No. 11/086,794
Filed: March 22, 2005
Attorney Docket No. 1033-IS1004

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed June 21, 2005 under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on March 22, 2005, without an oath or declaration. Accordingly, on April 19, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration executed by all inventors except Douglas Bruun and a late filing surcharge were filed. The petition argues that joint inventor Bruun is away on military leave and that attempts to forward the application materials to him have not been successful and thus due to his absence they have been unable to have him 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 forwarded by email to Mr. Bruun at the last known email address and that to date, he has not returned an executed copy of the oath or declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to Technology Center 26421 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

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COMMISSIONER FOR PATENTS
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WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DR.
E-118G
LAKE FOREST, CA 92630

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JUN 0 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Lau et al.	:	
Application No. 11/086,814	:	
Filed: March 21, 2005	:	ON PETITION
Atty Dckt No.: K35A1543	:	

This is a decision in response to the Petition to Correct Filing Date and Date-In Discrepancy Under 37 CFR 1.10(c), filed April 26, 2006, requesting the application be accorded a filing date of March 21, 2005, instead of the presently accorded filing date of March 22, 2005.

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on March 21, 2005. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EV499938975US. A review of the Express Mail label, No. EV499938975US, reveals that the "Date In" indicated on the Express Mail label is March 21, 2005. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No fee has been charged and none is due.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Derek L. Woods at (571) 272-3232.

Derek L. Woods
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
11/086,814	03/21/2005	2627	1000	K35A1543	6	18	2

CONFIRMATION NO. 3476

CORRECTED FILING RECEIPT

OC000000019205487

35219
WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: SANDRA GENUA
20511 LAKE FOREST DR.
E-118G
LAKE FOREST, CA 92630

Date Mailed: 06/09/2006

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)

Pui-Wah Lau, Huntington Beach, CA;
Jenghung Chen, Cupertino, CA;
Yanbin Song, Irvine, CA;

Assignment For Published Patent Application

WESTERN DIGITAL TECHNOLOGIES, INC., LAKE FOREST, CA

Power of Attorney: The patent practitioners associated with Customer Number **35219**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 04/19/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/086,814

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Disk drive compensation of bias imparted by a flex circuit cable utilizing a dual bias curve estimation scheme

Preliminary Class

360

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.

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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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WESTERN DIGITAL TECHNOLOGIES, INC.
ATTN: RENEE FRANKS
20511 LAKE FOREST DR.
E-118H
LAKE FOREST CA 92630

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JUL 03 2007

OFFICE OF PETITIONS

In re Application of :
Pui-Wah Lau et al. :
Application No. 11/086,814 : ON PETITION
Filed: March 21, 2005 :
Attorney Docket No. **K35A1543** :

This is a decision on the petition filed February 5, 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 December 22, 2006 for failure to timely pay the issue fee on or before December 21, 2006. Accordingly, a Notice of Abandonment was mailed January 17, 2007.

The issue fee and petition fee have been applied.

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
Senior Petitions Attorney
Office of Petitions

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Kethinni Chittibabu, et al.	:	
Application No. 11/086,826	:	DECISION GRANTING PETITION
Filed: March 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 15626-059002	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 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 August 3, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Mail Date: 04/20/2010

Applicant	: Kethinni Chittibabu	: DECISION ON REQUEST FOR
Patent Number	: 7622667	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,826	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **752** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1445 ROSS AVENUE
FOUNTAIN PLACE - SUITE 3700
DALLAS, TX 75202-2799

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Paul A. Vaughan	:	
Application No. 11/086,834	:	ON PETITION
Filed: March 22, 2005	:	
Attorney Docket No. 85689.11	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 22, 2008. No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is August 23, 2008. This decision precedes the mailing of a Notice of Abandonment. On January 13, 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 a Request for Continued Examination (RCE), including the fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 3733 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: THOMAS E. ANDERSON
HUNTON & WILLIAMS LLP
1900 K STREET, N.W.
WASHINGTON, D.C. 2006-1109

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CORRIGAN LAW OFFICE
5 BRIARCLIFF CT
APPLETON WI 54915

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JUN 01 2005

OFFICE OF PETITIONS

In re Application of :
James Thommes :
Application No. 11/086,842 : ON PETITION
Deposited: March 21, 2005 :
Attorney Docket No.: ITW 7188.65 :
Title: METHOD AND APPARATUS FOR RECEIVING A UNIVERSAL INPUT VOLTAGE IN A WELDING POWER SOURCE :

This is a decision on the petition to accord a filing date submitted April 29, 2005, requesting that the above-identified application be accorded a filing date of March 21, 2005.

Application papers in the above-identified application were deposited on March 21, 2005. However, on April 22, 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]

In response, 4 sheets of drawings, including figure 1-5 and the present petition were filed on April 29, 2005. The petition contends that the application as filed contained 4 sheets of informal drawings and was described in the original filed specification. In support, the petition is accompanied by a copy of applicant's postcard receipt which acknowledges receipt in the office of " Informal Drawings (4 sheets)" on March 21, 2005.

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[1] See 35 U.S.C. 111(a)(4)

Applicant's postcard receipt is prima facie[2] evidence that the drawing was received on March 21, 2005, but no drawings are present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that 4 sheets of drawings, including figures 1-5 were received on March 21, 2005, as shown in counsel's file, and later misplaced in the Office.

The petition is Granted. The $130.00 submitted towards the current $400.00 petition fee will be refunded.

Since the original drawings cannot be located in the Office, the copy of the drawings supplied on April 29, 2005, will be used for processing and examination purposes.

The application will then be returned to the Office of Initial Patent Examination for further processing with a **filing date of March 21, 2005**, using the 4 sheets of drawings supplied on April 29, 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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APR 27 2007

TECHNOLOGY CENTER 2100

Sean O'Dowd
Cooley Godward Kronish LLP
ATTN: Patent Group
Suite 500
1200 195h Street, NW
Washington DC 20036-2402

In re Application of:
Christopher Wilson.
Application No. 11/086873
Filed: March 21, 2005
For: System and Method for Removing Multiple Related Running Processes

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 detecting and terminating pestware 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 detecting and terminating pestware 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 detecting and terminating pestware 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 pestware is good pestware.

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 terminate pestware. 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 pestware.

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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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

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In re Application of	:	
Ren et al.	:	DECISION ON PETITION
Application No. 11/086,889	:	TO WITHDRAW
Filed: March 22, 2005	:	FROM RECORD
Attorney Docket No. GUIDP004	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 23, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on February 18, 2010 the power of attorney to Fitch Even Tabin & Flannery was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO CA 95014

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POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Hansjoerg Gramespacher	: DECISION ON REQUEST FOR
Patent Number	: 7651636	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,907	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **903** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OCT 11 2005

Warren B. Kice
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

In re Application of:	:	**DECISION ON PETITION**
Ennis Cornelius Sullivan	:	**TO MAKE SPECIAL**
Serial No. 11/086,938	:	**(ENERGY/ENVIRONMENT)**
Filed: March 22, 2005	:	

For: RAIL TRANSPORTATION SYSTEM AND METHOD OF DESIGNING SAME

This is a decision on the petition filed May 3, 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 V: Environmental Quality, or in the alternative, Section VI: Energy.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states the invention "is directed to a transportation system, according to which an electrically-operated relatively large, rail car travels along a track and is located relative to the track so that the composite center of gravity of the car is offset from the track in a lateral and longitudinal direction. Since the preferred embodiment utilizes an electric motor, the energy saving realized by transporting

a high volume of people, which otherwise could be using automobiles powered by internal combustion engines, is significant". However, applicant has not provided any facts in support of this statement. The petition should include an explanation describing the features and/or uses of the claimed invention that result in the conservation of energy. The petition itself should provide all the facts necessary to render a decision.

Applicant's Specification describes the invention as directed toward a further improvement of this transportation system involving particular locations of the center of gravity, the transportation system itself being the subject of a separate application. This does not provide any evidence that the invention of this application directly and primarily contributes to energy efficiency or environmental improvements any peripheral benefits arising from the increased efficiency are insufficient to qualify for special status.

These statements are insufficient to grant a petition 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 VI: Energy.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

Applicant's statements are insufficient to grant a petition 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 V: Environmental Quality. In this regard, no statements have been made that establish for the record how applicants' invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/js: 9/9/05

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TECHNOLOGY CENTER 3600

Warren B. Kice
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, TX 75202-3789

In re Application of:	:	**DECISION ON**
Ennis Cornelius Sullivan	:	**RENEWED PETITION**
Serial No. 11/086,938	:	**TO MAKE SPECIAL**
Filed: March 22, 2005	:	**(ENERGY/ENVIRONMENT)**

For: RAIL TRANSPORTATION SYSTEM AND METHOD OF DESIGNING SAME

This is a decision on the renewed petition filed November 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 V: Environmental Quality, or in the alternative, Section VI: Energy.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by the applicant or his attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

The petition states the invention is directed to a transportation system and method of designing same using an electric motor to propel a very large vehicle, or rail car, over a track, while eliminating the need for an internal combustion engine which pollutes the air. Thus, the invention materially enhances the quality

of the environment of mankind by contributing to the maintenance of a basic life-sustaining natural element, i.e., air.

Applicant's statements are insufficient to grant a petition 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 V: Environmental Quality. In this regard, the use of an electric motor to power large vehicles or cars on tracks has been known for many years, i.e. monorails at Walt Disney World, the Metro train which is used in the Washington, D.C. area, etc. The use of an electric motor on a large vehicle instead of an internal combustion engine, which is already conventional in the art, is not sufficient grounds for granting a petition under 37 CFR 1.102 1.102(c), MPEP 708.02, Section V.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition states that the utilization of an electric motor to power a relatively large vehicle enables the vehicle to transport a relatively large number of people, thus materially contributing the more efficient utilization and conservation of energy resources. The petition also states that the utilization of an electric motor to power a relatively large vehicle enables the vehicle to transport a relatively large number of people thus reducing energy consumption in combustion systems. In this regard, as discussed earlier, the use of electric motors to power large vehicles or cars on tracks for transporting large number of people are well known in the art. The fact that the applicant is using an electric motor in a vehicle, which is already conventional in the art, is not sufficient grounds for granting a petition under 37 CFR 1.102 1.102(c), MPEP 708.02, Section VI.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg: 11/23/05

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Vladimir M. Stankovic	: DECISION ON REQUEST FOR
Patent Number	: 7653867	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1037** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,318,667	:	
Issued: January 15, 2008	:	
Application No. 11/086,978	:	
Filed: March 22, 2005	:	
Attorney Docket No. BARN-107US	:	

This is a decision on the petition, filed July 3, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's city and state on the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment from "Lab-Line Instruments, Inc., Melrose Park, IL (US)" to "Lab Line Instruments, Inc., Dubuque, IA (US)" was recorded on April 3, 2008, after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

Inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

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WESTERMAN HATTORI DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

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In re Application of :
Hideo Kamata et al :
Application No. 11/086,992 : ON PETITION
Filed: March 23, 2005 :
Attorney Docket No. 052330

This is a decision on the petition, filed February 25, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 19, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
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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Lipsitz & McAllister, LLC
755 MAIN STREET
MONROE, CT 06468

Mail Date: 04/20/2010

Applicant	: Nicola Giordano	: DECISION ON REQUEST FOR
Patent Number	: 7643868	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/086,995	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1325** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of	:	
HAPP, Thomas	:	
Application No. 11/086,997	:	DECISION ON PETITION
Filed: March 23, 2005	:	TO WITHDRAW
Attorney Docket No. **543822013100**	:	FROM RECORD

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 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 Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **THOMAS HAPP**
14 MADISON AVENUE – 1ST FLOOR
PLEASANTVILLE, NEW YORK 10570

cc: **DICKE, BILLIG & CZAJA**
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2200
MINNEAPOLIS, MN 55402

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/086,997	03/23/2005	Thomas Happ	543822013100

CONFIRMATION NO. 4372

OC000000024211357

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/04/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/12/2007.

- 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.

Michelle R. Eisen

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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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

Applicant: Rondeau
Appl. No.: 11/087,013
Filing Date: March 23, 2005
Title: COMPOSITION FOR DYEING KERATIN FIBERS WITH A CATIONIC DIRECT DYE AND A THICKENING POLYMER
Attorney Docket No.: 05725.0441-01
Pub. No.: US 2005/0235433 A1
Pub. Date: October 27, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on December 23, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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WK

Mailed: 5-17-06

In re application of	:	
Hideaki Nakamura	:	DECISION ON
Serial No. 11/087,015	:	PETITION
Filed: March 22, 2005	:	
For: Biosensors	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed December 01, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that documents 1 and 2 cited on the PTO/SB/08 form be expunged. The decision on the petition is dismissed because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with materiality being defined as any information the examiner considers as being important to a determination of patentability of the claims. During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material".

The petition is **DISMISSED**.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Michael L. Goldman
Nixon Peabody, LLP
Clinton Square, P.O. Box 31051
Rochester, New York 14603-1051

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OFFICE OF PETITIONS

In re Application of :
Giorgio Lorenzon :
Application Number: 11/087020 :
Filing Date: 03/22/2005 :
Attorney Docket Number: 1011-706 :

DECISION ON PETITION

This is a decision on the petition filed on 7 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 24 November, 2006, for failure to timely file a proper reply to the non-final Office action mailed on 23 August, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 2 April, 2007.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so

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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)).

construed. Petitioner **must** notify the Office if this is not a correct interpretation.

Receipt of the amendment filed on 7 May, 2007, is acknowledged.

The application is being referred to Technology Center Art Unit 1725 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	: Clive W. Goodall	: DECISION ON REQUEST FOR
Patent Number	: 7575405	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Michael G. JENSEN	:	
Application No. 11/087,064	:	DECISION GRANTING PETITION
Filed: March 22, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **1778.3450000 (0204.00US)**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 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 January 28, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2116 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Jensen	: LETTER REGARDING
Application No. 11/087,064	: PATENT TERM ADJUSTMENT
Filed: March 22, 2005	:
Atty. Dkt. No.: 1778.3450000 (0204.00US)	:

This is a decision on the "Letter Regarding Patent Term Adjustment," filed January 27, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed October 29, 2008, stated that the patent term adjustment (PTA) to date is 288 days. On January 27, 2009, applicant submitted a request that the Office review this determination of adjustment.

However, prior to a response to this request, on July 28, 2009, the application was withdrawn from issue.

In view thereof, a response to applicant's request is being held in abeyance until after the mailing of any new Notice of Allowance and/or Notice of Allowability and the filing (or resubmission) of any request for review of the determination of patent term adjustment under a general duty of candor. A new determination of patent term adjustment will accompany any new Notice of Allowance and will include any further adjustments or reductions accrued to date. Applicant must submit a new request for review of the determination of adjustment in response to any new Notice of Allowance. An application for patent term adjustment under 37 CFR 1.705(b) or request for review of determination of adjustment under a general duty of candor is properly filed after the mailing of the Notice of Allowance on which the application issues and prior to payment of the issue fee (or a request for reapplication of the issue fee) in response to that Notice. A copy of this letter should accompany the renewed request for review of the calculation of adjustment.

Technology Center AU 2116 has been advised of this decision. The application is, thereby, forwarded to the Technology Center for further processing.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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James W. Huffman
Huffman Law Group, P.C.
1832 N. Cascade Ave.
Colorado Springs, CO 80907-7449

MAILED

MAR 14 2006

TECHNOLOGY CENTER 2100

In re Application of:
Darren M JONES et al
Appl. No.: 11/087,070
Filed: March 22, 2005
For: INSTRUCTION DISPATCH SCHEDULER EMPLOYING ROUND-ROBIN APPARATUS SUPPORTING MULTIPLE THREAD PRIORITIES FOR USE IN MULTITHREADING MICROPROCESSOR

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed July 14, 2005, to expunge information unintentionally submitted in an Information Disclosure Statement filed June 08, 2005.

The petition is **GRANTED**.

Petitioner requests that the document "MIPS32® 34K™ Processor Core Family Engineering Specification, Document Number: MD00413, Revision 0.20, MIPS Technologies, Inc., February 16, 2005", filed on June 08, 2005 be expunged from the record. Petitioner states that the document was unintentionally submitted and all existing copies should be destroyed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from public view and will not be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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FEB 28 2008

OFFICE OF PETITIONS

In re Application of :
Takahiro Koguchi :
Application No. 11/087,075 : ON PETITION
Filed: March 22, 2005 :
Attorney Docket No. SCEP 21.781 (100809-00257)

This is a decision on the petition, filed February 27, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 15, 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 2624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[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 : 10-2-08

TO SPE OF : ART UNIT 1652

SUBJECT : Request for Certificate of Correction for Appl. No.: 11087084 Patent No.: 7256022

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

Note: The request is on the last four pages

703 308-9390 Ext. 114
Certificates of Correction Branch
703-308-9390 ext. 114

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

N. Steed
SPE

1652
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KUTA INTELLECTUAL PROPERTY LAW, LLC
P.O. BOX 380808
CAMBRIDGE MA 02238

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OFFICE OF PETITIONS

In re Application of
Richard W. Devaul
Application No. 11/087,098
Filed: March 22, 2005
Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 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 March 29, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed December 29, 2007. Accordingly, the date of abandonment of this application is March 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

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 undersigned at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

April M. Wise
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of
T. Wade Fallin et al
Application No. 11/087,115
Filed: March 22, 2005
Attorney Docket No. SPINE 3.0-503 I

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 12, 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 August 17, 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 3738 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\Sept10\087115.wpd

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

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FROMMER LAWRENCE & HAUG LLP
10TH FLOOR
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 04/23/2010

Applicant	: Yasutomo Nishina	: DECISION ON REQUEST FOR
Patent Number	: 7624345	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,131	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **438** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FROMMER LAWRENCE & HAUG LLP
10TH FLOOR
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 05/18/2010

Applicant : Yasutomo Nishina
Patent Number : 7624345
Issue Date : 11/24/2009
Application No : 11/087,131
Filed : 03/23/2005

: 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 **505** 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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Trask Britt
P.O. Box 2550
Salt Lake City, UT 84110

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OFFICE OF PETITIONS

In re Application of

James L. Thomas et al.
Application No. 11/087,142
Filed: March 23, 2005
Attorney Docket No. 0274-6389.1US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 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 Allen C. Turner, on behalf of all attorneys of record who are associated with Customer No. 24247. All attorneys/agents associated with the Customer No. 24247 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.]

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **James L. Thomas**
42 High Country Drive
Cedar Crest, NM 87008

cc: **Vaughn North**
Thorpe North & Western
8180 South 700 East, Suite 350
Sandy, UT 84070

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/087,142	03/23/2005	James L. Thomas	0274-6389.1US

CONFIRMATION NO. 7862

POWER OF ATTORNEY NOTICE

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

OC000000026958835

Date Mailed: 11/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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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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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JUL 15 2008

OFFICE OF PETITIONS

In re Application of :
Anthony Joseph Martino et al :
Application No. 11/087,149 : ON PETITION
Filed: March 22, 2005 :
Attorney Docket No. FA0996 US DIV :

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 2, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on Januany 3, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1050 extension of time submitted with the petition on April 8, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2886 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patrick G. Burns, Esq.
GREER, BURNS & CRAIN, LTD.
300 South Wacker Drive, Suite 2500
Chicago, IL 60606

JUN 17 2008

In re Application of:
DOI *et al.*
Serial No.: 11/087,152
Filed: March 23, 2005
Attorney Docket No.: **0756-2150**

DECISION ON PETITION
TO EXPUNGE

This is a decision on the petition filed March 14, 2008, to expunge information submitted in an incorrect application under to 37 C.F.R. § 1.59(b), and M.P.E.P. § 724.05, paragraph II.

The petition is GRANTED.

Petitioner asserts that the request for an extension of time filed February 11, 2008, contained financial information that was not intended to be made public. Petitioner states that the failure to remove the information from the file would cause irreparable harm to the party who submitted it, or to the party in interest on whose behalf it was submitted. The petition is accompanied by the petition fee set forth in 37 C.F.R. § 1.17(h).

The petition complies with the requirements for expunging material inadvertently submitted in an application pursuant to M.P.E.P. § 724.05, paragraph II.

Accordingly, the petition is granted. Since the application is part of the electronic file environment of the USPTO, return of the original document is not practical. The electronic document will be removed from the electronic file. A redacted copy of the request remains in the file.

Inquiries related to this decision should be directed to Clayton E. LaBalle at (703) 308-0519.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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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GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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APR 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Cavanagh et al.	:	DECISION ON PETITION
Application No. 11/087,156	:	TO WITHDRAW
Filed: March 22, 2005	:	FROM RECORD
Attorney Docket No. SNG-0005-US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 14, 2010 the power of attorney to Goodwin Procter LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON DC 20004-1206

UNITED STATES PATENT AND TRADEMARK OFFICE

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PAUL HASTING JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of	
Todd E. Kooken et al	
Application No. 11/087,179	DECISION ON PETITION
Filed: March 24, 2005	TO WITHDRAW
Attorney Docket No. LEEE200474	FROM RECORD

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, 2009.

The request is **APPROVED**.

The request was signed by Robert M. Masters on behalf of the practitioners who are associated with Customer No. 36183.

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 copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Todd E. Kooken
3842 Grenville Road
University Heights, OH 44118

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/087,179	03/24/2005	Todd E. Kooken	LEEE200474

CONFIRMATION NO. 3926

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

OC000000039332807

Date Mailed: 12/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

- 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.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/087,179	03/24/2005	Todd E. Kooken	LEEE200474

CONFIRMATION NO. 3926

POA ACCEPTANCE LETTER

Todd E. Kooken
3842 Grenville Road
University Heights, OH 44118

OC000000039332886

Date Mailed: 12/23/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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BLANKENSHIP LAW, PLLC
2815 HARTLAND ROAD
SUITE 120
FALLS CHURCH, VA 22043

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MAY 23 2007

OFFICE OF PETITIONS

In re Application of	:	
Roland C. Santa Ana	:	
Application No. 11/057,187	:	ON PETITION
Filed: February 15, 2005	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on January 11, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item(s) (1).

Applicant's representative argues that Figure 13 was a duplicate and that figure would not be included. However, Figure 13 is described in the specification filed on February 15, 2005. Therefore, all references to Figure 13 should be deleted from the specification and the drawings filed with the instant petition should be re-numbered.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

In re Patent No. 7,568,301	:	DECISION ON REQUEST
Zemlansky, et al.	:	FOR
Issue Date: August 4, 2009	:	RECONSIDERATION OF
Application No. 11/087,188	:	PATENT TERM ADJUSTMENT
Filed: March 24, 2005	:	and
Atty Docket No. 202476.00024	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 5, 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 six hundred twenty-four (624) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred twenty-three (623) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 25, 2008 and ends on January 29, 2009, the day before the RCE was filed, and is 311 (not 312) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 623, not 624 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of 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 **six hundred twenty-three (623)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,568,301 B1

DATED : Aug. 4, 2009

INVENTOR(S) : Zemlansky, 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 (319) days

Delete the phrase "by 319 days" and insert – by 623 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

Ian McDowall
FAKESPACE LABS
241 Polaris Avenue
Mountain View, CA 94043

COPY MAILED
JUL 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Ian McDowall, et al.	:	DECISION ON PETITION
Application No.: 11/087,198	:	
Filed: March 22, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 212/850	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 31, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the "Notice to File Corrected Application Papers" mailed April 21, 2005 which set a two month period for reply. No extensions of time under provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 22, 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 and payment of the outstanding fees; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of April 21, 2005 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). Accordingly, since the four-month extension of time submitted with the petition on March 31, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and a refund check will be mailed.

The application is being referred to Office of Initial Patent Examination (OIPE).

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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

OCT 25 2005

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of	:
Fischer et al.	:
Serial No.: 11/087,227	: PETITION TO MAKE SPECIAL
Filed: March 23, 2005	:
Attorney Docket No.: 046143/287139	:

This is in response to applicants' petition filed September 28, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions relating to the cancer. The $130.00 petition fee as required by 37 CFR 1.17(h) was charged to applicant's Deposit Account No. 16-0605, as authorized.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, X. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-05

Paper No: __

RODMAN & RODMAN
7 SOUTH BROADWAY
WHITE PLAINS NY 10601

COPY MAILED

JUL 2 8 2005

OFFICE OF PETITIONS

In re Application of
Dumitrescu, et al. :
Application No. 11/087,240 : DECISION ON PETITION
Filing Date: 23 March, 2005
Attorney Docket No. BYR73 :

This is a decision on the petition filed on 23 May, 2005, that appears to seek a filing date of 23 March, 2005,for the instant application and Fig. 7, as described in the specification.

The petition under 37 C.F.R. §1.53 is **DISMISSED**, without prejudice, and with instructions to Petitioner.

BACKGROUND

This nonprovisional application was deposited on 23 March, 2005.

On 11 May, 2005, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the Notice) and indicated that a filing date had been granted, however, it appeared that Fig. 7, as described in the specification, had been omitted upon deposit.

The Notice specified a reply period of two (2) months, and also informed Petitioner that he could evidence that the omitted item had been deposited with the application, submit the omitted item and receive the date of submission as the filing date, or ignore the Notice and accept the application in the form/content as the Office indicated it was received.

Petitioner does not appear to have selected any of those alternatives. Instead, Petitioner submitted on 23 May, 2005, a copy of a drawing averred to be Fig. 7, as described in the specification, a new oath/declaration, but has not indicated that he wished either the old or a new filing date, and

Petitioner has submitted no date-stamped receipt card (see: MPEP §503[1]).

Petitioner in one voice requests entry of an amendment to include Fig. 7, and in another voice avers that he reviewed the application before submission and "it appeared to be complete."

Out of an abundance of caution, and so as not mis-interpret Petitioner's intention, the instant matter is **dismissed**, and Petitioner is requested to specify his request within the terms and alternatives set forth in the 11 May, 2005, Notice.

Further correspondence with respect to this matter should be addressed as follows:[2]

---

[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

8-1-05

UNITED STATES PATENT AND TRADEMARK OFFICE

OIPE JC112
AUG 10 2005
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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IJGJR.: 07-05

Paper No: __

RODMAN & RODMAN
7 SOUTH BROADWAY
WHITE PLAINS NY 10601

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of
Dumitrescu, et al.
Application No. 11/087,240
Filing Date: 23 March, 2005
Attorney Docket No. BYR73

DECISION ON PETITION

This is a decision on the petition filed on 23 May, 2005, that appears to seek a filing date of 23 March, 2005, for the instant application and Fig. 7, as described in the specification.

The petition under 37 C.F.R. §1.53 is **DISMISSED**, without prejudice, and with instructions to Petitioner.

BACKGROUND

This nonprovisional application was deposited on 23 March, 2005.

On 11 May, 2005, the Office mailed a "Notice of Omitted Items in a Nonprovisional Application," (the Notice) and indicated that a filing date had been granted, however, it appeared that Fig. 7, as described in the specification, had been omitted upon deposit.

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Petitioner has submitted no date-stamped receipt card (see: MPEP §503[1]).

Petitioner in one voice requests entry of an amendment to include Fig. 7, and in another voice avers that he reviewed the application before submission and "it appeared to be complete."

Out of an abundance of caution, and so as not mis-interpret Petitioner's intention, the instant matter is **dismissed**, and Petitioner is requested to specify his request within the terms and alternatives set forth in the 11 May, 2005, Notice.

Further correspondence with respect to this matter should be addressed as follows:[2]

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* * *

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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.

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[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this decision may be directed to the undersigned at (703)305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/087,241	03/23/2005	Tomohiro Matsuzaki		7370

7590 03/12/2009

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO, IL 60606

EXAMINER
NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
2454	

MAIL DATE	DELIVERY MODE
03/12/2009	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nomi Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
03/13/2009 NFARMER 0000166490

CHECK Refund Total: $1260.00

Adjustment date: 03/13/2009 NFARMER
03/25/2005 SDIRETA1 00000058 11087241
02 FC:1111 -500.00 OP
04 FC:1201 -400.00 OP
05 FC:1203 -360.00 OP

FORM PET651G (Rev. 08/07)

Attorney Docket No. 1429-12 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee(s): Talish et al.

Patent No.: 7,322,948

Issued: January 29, 2008 Dated: April 10, 2008

For: VIBRATIONAL LOADING APPARATUS FOR MOUNTING TO EXERCISE EQUIPMENT

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

"approve", lba 7/21/08

REQUEST FOR ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 35 U.S.C. §254 AND C.F.R. §1.322

In accordance with 35 U.S.C. §254, 37 C.F.R. §1.322 and M.P.E.P. §§1480 and 1485, it is respectfully requested that a Certificate of Correction be issued for the following reasons:

Please insert as the first paragraph in the specification, after the title, the following:

--CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a continuation of U.S. Application Serial No. 10/265,785 (now U.S. Patent No. 7,166,067) filed October 7, 2002. The patent and pending-application are both incorporated herein by reference in their entirety.--

Please replace Figures 1-4 (4 sheets) with the attached replacement sheets.

Form PTO/SB/44 making the correction is attached.

The Commissioner is authorized to charge the fee of $100, and any deficiency, or credit any overpayment to Deposit Account No. **50-2140**, without further authorization.

Respectfully Submitted,

George Likourezos
Reg. No. 40,067
Attorney for Patentee(s)

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 Broad Hollow Road, Suite 225
Melville, New York 11747
Telephone: (631) 501-5700
Facsimile: (631) 501-3526

GL:mg

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,322,948 B2

APPLICATION NO.: 11/087,248

ISSUE DATE : January 29, 2008

INVENTOR(S) : Talish et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please insert the following paragraph in the specification, after the title, as follows:

--CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a continuation of U.S. Application Serial No. 10/265,785 (now U.S. Patent No. 7,166,067) filed October 7, 2002. The patent and pending-application are both incorporated herein by reference in their entirety.--

Please also replace Figs. 1-4 with the attached replacement sheets (4 sheets).

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, NY 11747

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/23/08

TO SPE OF : ART UNIT 3764

SUBJECT : Request for Certificate of Correction on Patent No.: 7322948

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:

/LBA, MARCH 18, 2009/

SPE _____ Art Unit _____

Attorney Docket No. 1429-12 CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee(s): Talish et al.

Patent No.: 7,322,948

Issued: January 29, 2008 Dated: April 10, 2008

For: VIBRATIONAL LOADING APPARATUS FOR MOUNTING TO EXERCISE EQUIPMENT

Attn: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

"approve", lba 7/21/08

REQUEST FOR ISSUANCE OF A CERTIFICATE OF CORRECTION UNDER 35 U.S.C. §254 AND C.F.R. §1.322

In accordance with 35 U.S.C. §254, 37 C.F.R. §1.322 and M.P.E.P. §§1480 and 1485, it is respectfully requested that a Certificate of Correction be issued for the following reasons:

Please insert as the first paragraph in the specification, after the title, the following:

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The Commissioner is authorized to charge the fee of $100, and any deficiency, or credit any overpayment to Deposit Account No. **50-2140**, without further authorization.

Respectfully Submitted,

George Likourezos
Reg. No. 40,067
Attorney for Patentee(s)

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 Broad Hollow Road, Suite 225
Melville, New York 11747
Telephone: (631) 501-5700
Facsimile: (631) 501-3526

GL:mg

PTO/SB/44 (04-05)
Approved for use through 04/30/2007. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,322,948 B2

APPLICATION NO.: 11/087,248

ISSUE DATE : January 29, 2008

INVENTOR(S) : Talish et al.

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please insert the following paragraph in the specification, after the title, as follows:

--CROSS-REFERENCE TO RELATED APPLICATIONS

This application is a continuation of U.S. Application Serial No. 10/265,785 (now U.S. Patent No. 7,166,067) filed October 7, 2002. The patent and pending-application are both incorporated herein by reference in their entirety.--

Please also replace Figs. 1-4 with the attached replacement sheets (4 sheets).

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road, Suite 225
Melville, NY 11747

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

BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

COPY MAILED

OCT 30 2007

OFFICE OF PETITIONS

In re Application of	:
Kengo KOIKE	:
Application No. 11/087,278	: DECISION ON PETITION
Filed: March 22, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 05-270	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 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.

Petitioner's deposit account was erroneously charged a petition fee of $1500 for the instant petition. The petition fee due for the instant petition was $1370. Accordingly, petitioner's deposit account no. 02-0184 will be credited $130.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2809 for appropriate action on the amendment filed September 10, 2007, including 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 Buccei
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/087,278	03/22/2005	2809	1000	05-270	14	3

CONFIRMATION NO. 7857

CORRECTED FILING RECEIPT

34704
BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

OC000000026488333

Date Mailed: 10/26/2007

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)

Kengo Koike, Niiaz-shi, JAPAN;

Assignment For Published Patent Application

Sanken Electric Co., Ltd.

Power of Attorney:

Gregory LaPointe--28395
Barry Kelmachter--29999
William Slate--37238
Ross Christie--47492

Domestic Priority data as claimed by applicant

This application is a CIP of 10/525,894 02/25/2005 PAT 7,035,119

Foreign Applications

JAPAN P2004-85634 03/23/2004

If Required, Foreign Filing License Granted: 05/16/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/087,278**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Switching power source

Preliminary Class

363

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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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED
OCT 30 2007
OFFICE OF PETITIONS

In re Application of :
Robert Christopher Baumann :
Application No. 11/087,280 : ON PETITION
Filed: March 22, 2005 :
Attorney Docket No. TI-29835.1 :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed October 8, 2007, 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 March 9, 2007. A response was filed June 6, 2007 but by Advisory Action of October 5, 2007, the applicant was advised that the response did not place the application in condition for allowance. This application therefore became abandoned on June 11, 2007. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the amendment submitted June 6, 2007 be considered as the submission required under 37 CFR 1.114.

The application is being forwarded to Technology Center 1792 for processing of the RCE. Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 04/21/2010

Applicant	: Alexander A. Sourov	: DECISION ON REQUEST FOR
Patent Number	: 7587410	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,289	: OF WYETH
Filed	: 03/22/2005	:
		:

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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DIW Dec-08

PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS OH 43215

COPY MAILED
DEC 10 2008
OFFICE OF PETITIONS

In re Application of :
Steven K. Waisanen :
Application Number: 11/087294 :
Filing Date: 03/23/2005 :
Attorney Docket Number: :
4005192-166351 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed on August 20, 2007, to revive the above-identified application.

The Office apologizes for the delay in responding to the present petition.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on August 3, 2007, for failure to timely the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on May 2, 2007, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on September 26, 2007.

On August 20, 2007, the subject petition was filed, along with the petition fee.

The subject petition contains a statement by registered patent practitioner, Richard M. Mescher, stating "[t]he file for this application was transferred from another law firm to our law form and erroneously and inadvertently not entered into our docketing system. There was an intent not to allow this application to go abandoned."

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. 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 § 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 this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be

> unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Here, petitioner states that the delay was due to an inadvertent error on the part of petitioner's counsel, and that petitioners' intent was not to allow this application to become abandoned.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[3] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[4]

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a), the petition will be dismissed.

In summary, while the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, the showing of record suggests that the delay until the filing of the subject petition may have been unintentional. Accordingly, it is recommended that a petition under 37 CFR

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[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."

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3] Id.

[4] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

1.137(b), be filed, in accordance with the guidance provided below.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[5] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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.

Receipt of the payment of $1,500.00 made on August 20, 2007, is acknowledged. The fee for a petition under 37 CFR 1.137(a) on August 20, 2007, however, was $500.00. Accordingly, an overpayment of $500.00 was made, which may be applied towards the

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[5] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. 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)).

fee due for a petition under 37 CFR 1.137(b). As the fee (non-small entity) for a petition under 37 CFR 1.137(b) is currently $1,620.00, a balance of $1,120.00 would be due with a petition under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Privacy Act Statement

PTO/SB/64 (11-08)
Approved for use through 12/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

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.

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PORTER WRIGHT MORRIS & ARTHUR, LLP
INTELLECTUAL PROPERTY GROUP
41 SOUTH HIGH STREET
28TH FLOOR
COLUMBUS OH 43215

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MAR 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven K. Waisanen	:	
Application Number: 11/087294	:	
Filing Date: 03/23/2005	:	ON PETITION
Attorney Docket Number:	:	
4005192-166351	:	

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 3, 2007, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on May 2, 2007, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on September 26, 2007. On August 20, 2007, a petition under 37 CFR 1.137(a) to revive the application was filed. On December 10, 2008, the petition was dismissed.

On January 9, 2009, the subject petition was filed, along with the petition fee.

---

[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)).

Receipt of the issue and publication fee payments filed on August 20, 2007 is acknowledged.

The application is 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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

11-19-07

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United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,285,052 B1
Ser. No. : 11/087296
Inventor(s) : Brian G. Rowell, et. al.
Issued : October 23, 2007
Title : INTERMEDIATE SHAFT ASSEMBLLY

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Sonnax Industries, Inc.
P.O. box 440
1 Automatic Drive
Bellows falls, VT 05101-0440

ej

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Krieger, Daniel J.	:	
Application No. 11/087,338	:	DECISION ON PETITION
Filed: March 23, 2005	:	
Attorney Docket No. 107267-8305	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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 $1020.00 extension of time fee submitted with the petition on July 24, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3611 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

Mail Date: 04/20/2010

Applicant	: Thomas E. Daniels	: DECISION ON REQUEST FOR
Patent Number	: 7639806	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,365	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MINNEAPOLIS, MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
Norman J. Bastin, et al.	:	
Application No. 11/087,381	:	DECISION ON PETITION
Filed: March 22, 2005	:	TO WITHDRAW
Attorney Docket No. 18361-002001	:	FROM RECORD
	:	

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 John C. Phillips 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 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).

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: NORMAN J. BASTIN
327 HESTIA WAY
ENCINITAS, CA 92024

cc: NORMAN J. BASTIN
BEAUTY LAMP CORPORATION
4510 EXECUTIVE DRIVE
SUITE 125
SAN DIEGO, CA 92121

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/087,381	03/22/2005	Norman J. Bastin	18361-002001

CONFIRMATION NO. 5236

OC000000024426598

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Date Mailed: 06/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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AT&T LEGAL DEPARTMENT - ZO
Attn: PATENT DOCKETING, ROOM 2A-207
ONE AT&T WAY
BEDMINSTER, NJ 07921

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OFFICE OF PETITIONS

In re Application of
Siavash M. ALAMOUTI
Application No. 11/087,390
Filed: March 22, 2005
Attorney Docket No. **113291 DIV2/037-0115-7**

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 June 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the supplemental amendment filed August 18, 2009.

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).

It is also noted that the amendment filed August 18, 2009 does not comply with the requirements set forth in 37 CFR 1.121.

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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

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1320 N. COURTHOUSE ROAD
9TH FLOOR
ARLINGTON, VA 22201-2525

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OFFICE OF PETITIONS

In re Application of
Gregory D. Troxel, et al.
Application No. 11/087,430
Filed: March 23, 2005
Attorney Docket No. 04-4004

ON PETITION

This is a decision in response to the petition, filed April 6, 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 a failure to reply in a timely manner to a non-final Office action mailed July 31, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on November 1, 2008. This decision precedes the mailing of a Notice of Abandonment. On April 6, 2009, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Stephen J. Kontos 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. While a courtesy copy of this decision is being mailed Mr. Kontos, all future correspondence will be directed solely to the address of record.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 2419 for appropriate action by the Examiner in the normal course of business on the reply received April 6, 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

cc: STEPHEN J. KONTOS
RADER, FISMAN & GRAUER, PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: T. Wade Fallin	: DECISION ON REQUEST FOR
Patent Number	: 7604654	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,434	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/22/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **591** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BRINKS HOFER GILSON &
LIONE/MARVELL
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Peter H. Mahowald	:	
Application No. 11/087,453	:	DECISION GRANTING PETITION
Filed: March 23, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. MP1110 (13036/150)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 9, 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 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2622 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/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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Paper No. None

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

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OFFICE OF PETITIONS

In re Application of	:	
Juergen Daemmgen et al.	:	
Application No. 11/087,465	:	DECISION ON PETITION
Filed: March 23, 2005	:	UNDER 37 C.F.R. §1.181
Attorney Docket Number: 1/1666	:	
Title: USE OF PDE III INHIBITORS FOR	:	
THE REDUCTION OF HEART SIZE IN	:	
MAMMALS SUFFERING FROM HEART	:	
FAILURE	:	

This is a decision on the petition filed on February 2, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed April 21, 2005, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 22, 2005. A notice of abandonment was mailed on January 10, 2006.

With the present petition, Petitioner has asserted that a response to this communication was submitted on May 12, 2005. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated May 12, 2005, along with a declaration and an authorization to charge the associated surcharge to Applicant's Deposit Account.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**

The surcharge associated with the late submission of an oath or declaration has been charged to Petitioner's Deposit Account, as authorized in the response of May 12, 2005.

The Office of Initial Patent Examination will be notified of this decision.

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.

The Power of Attorney and Change of Correspondence has been entered and made of record.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Suzanne Erez
IBM CORPORATION
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights, NY 10598

Mail Date: 04/21/2010

Applicant	: Igor Dozorets	: DECISION ON REQUEST FOR
Patent Number	: 7627843	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **765** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DUANE MORRIS LLP - Princeton
PO BOX 5203
PRINCETON, NJ 08543-5203

Mail Date: 04/21/2010

Applicant	: Robert E. Yang	: DECISION ON REQUEST FOR
Patent Number	: 7574057	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/087,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/23/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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: D. Stodola

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/6/07

TO SPE OF : ART UNIT 3679

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/087,483 Patent No.: 7,032,892

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Daniel P Stodola — SPE

3679 — Art Unit

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SEP 17 2008

In re Patent No. 7,032,892
Issued : April 25, 2006
Application No. 11/087,483
Filed: March 22, 2005
Attorney Docket No. P214709KRU

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: AND REQUEST FOR CERTIFICATE
: OF CORRECTION

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed December 17, 2007, to correct an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to a prior-filed application by way of certificate of correction.

The petition is **granted**.

A review of the application file history reveals that a priority claim under 37 CFR 1.78 was present in the first sentence of the specification on March 22, 2005. The priority claim states, in part, that, "[t]his is a continuation of U.S. Patent Application Serial No. 10/456,247 filed on June 5, 2003, which is a continuation of U.S. Patent Application Serial No. 09/972,380, filed October 11, 2001, which claims priority of U.S. Design Application Serial No. 29/067,042, filed February 27, 1997..."[1] The instant petition under 37 CFR 1.78(a)(3) is now filed to correct the priority claim made on March 22, 2005, such that U.S. Patent Application Serial No. 09/972,380 is noted as a continuation-in-part of U.S. Design Application Serial No. 29/067,042.

The instant application was filed March 22, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

[1]It is noted that, prior to the mailing of this decision, no priority information relative to U.S. Design Application Serial No. 29/067,042 was entered in the USPTO internal database.

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Petitioner is advised that the granting of this petition should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed applications.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney at (571) 272-3222.

Anthony Knight
Supervisory
Office of Petitions