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Gergely T. Zimanyi
Sidley Austin Brown & Wood LLP
Suite 2000
555 California Street
San Francisco, CA 94104-1715

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Maurice Thomas	:	
Application No. 11/092,826	:	DECISION ON PETITION
Filed: March 28, 2005	:	TO WITHDRAW
Attorney Docket No. 28139/81001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 27, 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 Philip W. Woo on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor Maurice Thomas at the address indicated below.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Maurice Thomas
1255 Whispering Oaks Drive
Danville, CA 94506

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NOV 06 2008

MAURICE THOMAS
1255 WHISPERING OAKS DRIVE
DANVILLE, CA 94506

In re Application of Maurice Thomas Application No. 11/092,826 Filed: March 28, 2005 Attorney Docket No. 28139/81001	: : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 30, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 19, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 19, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 20, 2008. The issue and publication fees were submitted on March 26, 2008. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $720 issue fee and $300 publication fee; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080306

DATE : February 26, 2008

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction on Patent No.: 7154627 B2

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

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

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

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

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

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

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

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

Comments:

On page 3, the correction for column 26, line 40, "-- print jobs --" should be "-- print job --".

SPE: /David Moore/ Art Unit 2625

571-270-9754
Virginia Tolbert

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/4/08 Paper No.: —

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/092857 Patent No: 7280245 B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: KAN

SPE

2625
Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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

OCT 1 6 2007

In re Application of	:	
Junta Yamamichi	:	DECISION ON REQUEST TO
Application No. 11/092859	:	PARTICIPATE IN PATENT
Filed: March 30, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. **03500.109206.**	:	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 19, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

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

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

John Peng
TC 2600
Quality Assurance Specialist

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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MAR 1 7 2008

OFFICE OF PETITIONS

In re Application of	:	
James F. Zucherman et al.	:	
Application No. 11/092,862	:	DECISION ON PETITION
Filed: March 29, 2005	:	TO WITHDRAW
Attorney Docket No. 5910-243	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 2007.

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

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 17, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Coats & Bennett /Medtronics**
1400 Crescent Green
Suite 300
Cary, NC 27518

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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
Memphis, TN 38132

Mail Date: 04/21/2010

Applicant	: James F. Zucherman	: DECISION ON REQUEST FOR
Patent Number	: 7621939	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/092,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1075** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Bradley Lytle
Oblon, Spivak, McClelland Maier & Neustadt, LLP
1940 Duke Street
Alexandria VA 22314

In re Application of:
Morita et al.
Application No. 11/092,897
Filed: March 30, 2005
For: Content Transfer System, Content Transfer Method, Content Transmitting Apparatus, Content Transmission Method, Content Receiving Apparatus, Content Reception Method and Computer Program

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed October 16, 2009 under 37 CFR § 1.181 to have the examiner consider a reference on the Information Disclosure Statement s(IDS) filed on September 25, 2008 that were not previously considered.

A review of the record reveals that the examiner has now considered all of the references and returned an initialed signed copy of the September 25, 2008 1449 on October 22, 2009 to petitioner.

As petitioner's relief has already occurred, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/092,897	03/30/2005	Takao Morita	268727US6	7436

22850 7590 10/27/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
TRAN, ELLEN C

ART UNIT	PAPER NUMBER
2433	

NOTIFICATION DATE	DELIVERY MODE
10/27/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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

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MAY 18 2009

OFFICE OF PETITIONS

In re Patent No. 7,474,628
Issued: January 6, 2009
Application No. 11/092,901
Filed: March 30, 2005
Attorney Docket No. 338433US6SD/jkl

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed March 6, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred fifteen (615) days to nine hundred seven (907) days.

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

On January 6, 2009, the above-identified application matured into US Patent No. 7,474,628 with a patent term adjustment of 615 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 907 days, which is the sum of 292 days of patent term adjustment due to exceeding three year pendency and 615 days due to USPTO delay in prosecution."

The 292-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 30, 2005, and the patent having been issued on January 6, 2009, three years and 292 days later. Patentees assert that in addition to this 292-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 615 days for the failure by the Office to mail at least one of a

notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (292 days) and the period of Examination Delay (615 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 907 days, which is the sum of the period of Three Year Delay (292 days) and the period of Examination Delay (615 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 907 days (292 + 615 reduced by 0 overlap – 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on January 6, 2009, the application was pending three years and 292 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 615 days is correct. At issue is whether patentees should accrue 292 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 615 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 292 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 30, 2005, to the date the patent issued on January 6, 2009. Prior to the issuance of the patent, 615 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 292 days for Office delay in issuing the patent overlap with the 615 days of Office delay. During that time, the issuance of the patent was delayed by 615 days, not 615 + 292 days. The Office took 14 months and 615 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 615 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 292 days. The Office did not delay 615 days and then an additional 292 days. Accordingly, 615 days of patent term adjustment (not 615 and 292 days) was properly entered since the period of delay of 292 days attributable to the delay in the issuance of the patent overlaps with the adjustment of

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

615 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 615 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 292 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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OFFICE OF PETITIONS

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

In re Patent No. 7,474,628
Issued: January 6, 2009
Application No. 11/092,901
Filed: March 30, 2005
Attorney Docket No. 338433US6SD/jkl

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on July 16, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 615 days to 892 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent, considering the 5 days of overlap, is adjusted by eight hundred ninety-two (892) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred ninety-two (892)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,474,628 B2

DATED : January 6, 2009

INVENTOR(S) : Katsutoshi Itoh

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 (615) days

Delete the phrase "by 615 days" and insert – by 892 days--

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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.
11/092,919	03/30/2005	Yoko Kimura	XA-10305	7138

181 7590 06/14/2007
MILES & STOCKBRIDGE PC
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MCLEAN, VA 22102-3833

EXAMINER
SCHWARTZ, JORDAN MARC

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
06/14/2007	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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In re Application of	:	
Kimura et al	:	DECISION ON PETITION
Serial No.: 11/092,919	:	UNDER 37 CFR 1.48(b)
Filed: 03/30/2005	:	
For: Super Wide-Angle Lens System	:	
And Image-Capturing Device Using the Same		

In view of the papers filed on July 28, 2006 under 37 CFR 1.48(b), the inventorship in this nonprovisional application has been changed by the deletion of Atsushi Shibayama. Thus, the Petition is GRANTED.

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

Jordan M. Schwartz
Primary Patent Examiner
Art Unit 2873

Miles & Stockbridge PC
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Guice Patents PLLC
12647 Galveston Court #302
Manassas VA 20112

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OFFICE OF PETITIONS

In re Application of :
Cheng-Kun Chen :
Application No. 11/092,926 : DECISION ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. **4616-0004** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 16, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 15, 2008. Accordingly, the date of abandonment of this application is March 17, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 and the publication fee of $300, (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.

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

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

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of
Michael KUND, et al
Application No. 11/092,969
Filed: March 30, 2006
Attorney Docket No. 543822013400

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to, Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 12, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD
SUITE 1000
DALLAS, TX 75252

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C. DOUGLASS THOMAS
1193 CAPRI DRIVE
CAMPBELL CA 95008

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OFFICE OF PETITIONS

In re Application of
C. Douglass Thomas
Application No. 11/093,002
Filed: March 28, 2005
Attorney Docket No.: **CDT005C1**

ON PETITION

This is a decision on the petition filed April 18, 2008, to withdraw the holding of abandonment for the above-identified application, which is being treated under 37 CFR 1.181.

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

The application was held abandoned on October 31, 2007, for failure to timely submit a timely response to the Final Office Action mailed July 30, 2007, which set a three month period for reply. Accordingly, a Notice of Abandonment was mailed March 19, 2008.

Petitioner asserts that a response was filed October 26, 2007.

A search of the application file and the USPTO records reveals that in fact, the Notice of Appeal and appropriate fees as well as a Pre Appeal Brief and Request for Review, were timely filed on October 26, 2007.

Accordingly, the response was timely and the Notice of Abandonment mailed March 19, 2008 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged.

The Notice of Appeal and the Pre Appeal Brief and Request for Review **filed October 26, 2007 are both being referred to Technology Center 2134.**

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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OFFICE OF PETITIONS

In re Application of	:	
Ranstrom et al.	:	
Application No. 11/093,025	:	DECISION ON PETITION
Filed: March 29, 2005	:	
Attorney Docket No. 054054/346419	:	

This is a decision on the petition, filed August 11, 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 AS MOOT**.

A review of the written record indicates an irregularity in the mailing of the Office action of October 29, 2008. In this regard, the Office received a revocation and power of attorney including a change of correspondence address on August 4, 2008, prior to the mailing of the Office action of October 29, 2008. Office records were not updated to reflect this new change of address. Accordingly, as the Office action was mailed to an incorrect address. Because there was an irregularity in the mailing of the Office action of October 29, 2008, a supplemental Office action was mailed on July 20, 2009, and the time period for reply was restarted. Therefore no abandonment exits and the petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment is moot.

This application is being referred to the Technology Center AU 3623 for further examination on the merits.

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of
Eric De Benedittis et al
Application No. 11/093,044
Filed: March 30, 2005
Attorney Docket No. 033818-120

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition filed August 2, 2007, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

This pending nonprovisional application was filed on March 30, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/566,874, which was filed on December 7, 2004, and for which priority is claimed.

A reference to the prior-filed provisional application has **not** been included in an amendment to the first sentence of the specification following the title.

Additionally, the above matter was addressed by the examiner in the Nonfinal Rejection mailed April 3, 2007. Petitioner should note on page three(3) second paragraph that applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11. Further, the reference to the provisional application should not be included with the foreign application data.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment in compliance with the above matter is required.

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OLIGG & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Application of
Hiroki Ishikawa et al
Application No. 11/093,051
Filed: March 30, 2005
Attorney Docket No. 123110

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 February 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 December 31, 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 3661 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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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Francesco Gatta	: DECISION ON REQUEST FOR
Patent Number	: 7652520	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,052	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **170** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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AUG 27 2009

OFFICE OF PETITIONS

In re Patent No. 7,514,073
Issued: April 7, 2009
Application No. 11/093,073
Filed: March 29, 2005
Attorney Docket No. 075405-0207

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed May 15, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from one hundred thirty-five (135) days to two hundred forty-two (242) days.

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

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

On April 7, 2009, the above-identified application matured into US Patent No. 7,514,073 with a patent term adjustment of 135 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to an additional 107 days of patent term adjustment due to exceeding three year pendency.

The 107-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 29, 2005 and a request for continued examination (RCE) having being filed on July 14, 2008. The filing of an RCE cuts-off the applicants' ability to accumulate any additional patent term adjustment against the three-year pendency provision, but does not otherwise affect patent term adjustment. 37 CFR § 1.703(b)(1).

Patentees assert that in addition to this 107 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 304 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 169 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (107 days) and the period of Examination Delay (304 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 411 days, which includes the period of Three Year Delay (107 days) and the period of Examination Delay (304 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 242 days (107 + 304 reduced by 0 overlap – 169 (applicant delay)).

The Office agrees that as of the filing of the RCE on July 14, 2008, the application was pending three years and 107 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a reduction of 304 days for examination delay was entered. At issue is whether patentees should accrue 107 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 304 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 107 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

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

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

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

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 29, 2005, to the date the RCE was filed on July 14, 2008. Prior to the filing of the RCE, 304 days of patent

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 107 days for Office delay in issuing the patent overlap with the 304 days of Office delay. During that time, the issuance of the patent was delayed by 304 days, not 304 + 107 days. The Office experienced 304 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 304 days of Office delay and the time allowed within the time frames for processing and examination, as of the filing of the RCE, the application was pending three years and 107 days. The Office did not delay 304 days and then an additional 107 days. Accordingly, 304 days of patent term adjustment (not 304 and 107 days) was properly entered since the period of delay of 107 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 304 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 304 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 135 days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartera Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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FOLEY & LARDNER LLP
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SAN DIEGO CA 92138-0278

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In re Patent No. 7,514,073
Issued: April 7, 2009
Application No. 11/093,073
Filed: March 29, 2005
Attorney Docket No. **075405-0207**

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed on October 23, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 135 days to 242 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two hundred forty-one (241) 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 29, 2008 and ends on July 13, 2008, the day before the RCE was filed, the B delay is 106 (not 107) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 241, not 242 days.

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

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

term of the above-identified patent is extended or adjusted by **two hundred forty-one (241)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,514,073 B2

DATED : April 7, 2009

INVENTOR(S) : Alan L. Epstein

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 (135) days

Delete the phrase "by 135 days" and insert – by 241 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

OCT 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Timothy C. Bisson et al	:	DECISION GRANTING
Application No. 11/093,074	:	PETITION
Filed: March 28, 2005	:	
Attorney Docket No. 5693P130	:	

This is a decision on the petition filed June 27, 2005, requesting that the above-identified application be accorded a filing date of March 28, 2005, rather than the presently accorded filing date of March 29, 2005.

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on March 28, 2005, pursuant to the requirements of 37 CFR 1.10. In support, petitioner provided, inter alia, a copy of the Express Mail label, receipt no. EV568646224US, showing a Date-In of March 28, 2005, which also includes a USPS date stamp receipt of March 28, 2005. The same Express Mail Number found on the original Utility Application Transmittal is located in the official file.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label; MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on March 28, 2005. Accordingly, the instant application is entitled to a filing date of March 28, 2005, and has been so accorded.

The petition is granted. No petition fee is required and none has been changed.

This matter is being referred to Technology Center AU 2186 for examination in due course.

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

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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INDIANAPOLIS OFFICE 27879
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: James N. BeMiller	: DECISION ON REQUEST FOR
Patent Number	: 7598374	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,091	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1152** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Randall et al.	:	
Application No. 11/093,111	:	Decision According Status
Filed: March 28, 2005	:	Under 37 CFR 1.47(a)
Attorney Docket No. 232232-999146	:	
For: Allograft Implant	:	

This is a decision on the petition under 37 CFR 1.47(a), filed July 5, 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.

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CHAN LAW GROUP LC
1055 W. 7TH ST,
SUITE 1880
LOS ANGELES CA 90017

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APR 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Myers, Robert T.	:	
Application No. 11/093,136	:	DECISION ON PETITION
Filed: March 29, 2005	:	
Attorney Docket No. 0989.706	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2173 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: IVAN M. POSEY
CHAN LAW GROUP, LLP
P.O. BOX 79159
LOS ANGELES, CA 90079

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

JUL 13 2005

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

In re Application of	:
Douglas Hovey et al	:
Serial No.: 11/093,149	: PETITION TO MAKE SPECIAL
Filed: March 22, 2005	:
Attorney Docket No.: 029318-1084	:

This is in response to applicants' 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, 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

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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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA MN 55343-9185

COPY MAILED
AUG 0 9 2006
OFFICE OF PETITIONS

In re Application of	:	
Southway et al.	:	
Application No. 11/093,172	:	DECISION ON PETITION
Filed: 29 March, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. P68.2-11854-US01	:	

This is a decision on the petition under 37 CFR 1.55(c), filed 29 March, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Canadian Application No. 2,462,240, filed 29 March, 2004.

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)."

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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Frances M. Hicks
Lead Paralegal
Office of Petitions

RECEIVED
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MAR 29 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	N. Southway and A. Pelkonen
Application No.:	11/093,172
Filed:	March 29, 2005
For:	MODULAR MUFFLER
Examiner:	Unknown
Group Art Unit:	2837

Mail Stop: Petition
Assistant Commissioner for Patents
Washington, D.C. 20231

Docket No.: P68.2-11854-US01

PETITION UNDER 37 CFR §1.55(c) TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. §119(a)-(d) FOR THE BENEFIT OF A PRIOR-FILED FOREIGN APPLICATION

Applicants hereby request correction of the priority claim of the above-referenced U.S. Patent Application No. 11/093,172. This application should properly claim priority to Canadian Patent Application No. 2,462,240.

The filing date of U.S. Patent Application No. 11/093,172 is March 29, 2005 and the filing date of Canadian Patent Application No. 2,462,240 is March 29, 2004. The content of the Applications is substantially identical.

In light of the above, U.S. Patent Application No. 11/093,172 was filed within 12 months of the filing of Canadian Patent Application No. 2,462,240 under 35 U.S.C. §119(a).

Applicants respectfully assert that the entire delay in asserting the claim of priority under 37 USC §119 and 35 CFR §1.55 to the earlier Canadian Application was unintentional.

In accordance with 37 CFR 1.55(c)(2), please debit the surcharge required under 37 CFR §1.17(t) of $1370.00 from deposit account 22-0350.

03/30/2006 EAREGAY1 00000022 220350 11093172
01 FC:1454 1370.00 DA

Any additional fees should be charged to deposit account 22-0350.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: 3/29/06

By: _____
James M. Urzedowski
Registration No.: 48,596

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

F:/wpwork/jmu/11854-pet-20060329.doc

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	N. Southway and A. Pelkonen
Application No.:	11/093,172
Filed:	March 29, 2005
For:	MODULAR MUFFLER
Examiner:	Unknown
Group Art Unit:	2837

FAX RECEIVED
MAR 29 2006
OFFICE OF PETITIONS

Mail Stop: Petition
Assistant Commissioner for Patents
Washington, D.C. 20231

Docket No.: P68.2-11854-US01

PETITION UNDER 37 CFR §1.55(c) TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. §119(a)-(d) FOR THE BENEFIT OF A PRIOR-FILED FOREIGN APPLICATION

Applicants hereby request correction of the priority claim of the above-referenced U.S. Patent Application No. 11/093,172. This application should properly claim priority to Canadian Patent Application No. 2,462,240.

The filing date of U.S. Patent Application No. 11/093,172 is March 29, 2005 and the filing date of Canadian Patent Application No. 2,462,240 is March 29, 2004. The content of the Applications is substantially identical.

In light of the above, U.S. Patent Application No. 11/093,172 was filed within 12 months of the filing of Canadian Patent Application No. 2,462,240 under 35 U.S.C. §119(a).

Applicants respectfully assert that the entire delay in asserting the claim of priority under 37 USC §119 and 35 CFR §1.55 to the earlier Canadian Application was unintentional.

In accordance with 37 CFR 1.55(c)(2), please debit the surcharge required under 37 CFR §1.17(t) of $1370.00 from deposit account 22-0350.

Any additional fees should be charged to deposit account 22-0350.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: 3/29/06

By: _____
James M. Urzedowski
Registration No.: 48,596

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

F:/wpwork/jmu/11854-pet-20060329.doc

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CENTRAL FAX CENTER
MAR 29 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	N. Southway and A. Pelkonen
Application No.:	11/093,172
Filed:	March 29, 2005
For:	Modular Muffler
Examiner:	Unknown
Group Art Unit:	2837

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

Docket No.: P68.2-11854-US01

FACSIMILE TRANSMITTAL LETTER

DATE: March 29, 2006
TIME: 3:30pm.

TO: Examiner
FACSIMILE NO.: 571-273-8300
GROUP ART UNIT: 2837
TOTAL NUMBER OF PAGES (including cover letter): 3

Following please find a 2 page Petition Under 37 CFR §1.55(c) to Accept an Unintentionally Delayed Claim of Priority Under 35 U.S.C. §119(a)-(d) for the Benefit of a Prior-Filed Foreign Application in addition to this 1 page Facsimile Transmittal Letter.

A copy of the Petition enclosed herewith was originally sent to 571-273-0025 at the instruction of the Petitions Branch, subsequently we were informed to send the fax to 571-273-8300.

If a fee is required, Commissioner of Patents is hereby authorized to charge Deposit Account No. 22-0350 for any required fees. To the extent that any petition is required to consider this communication, please treat this as such a petition.

Respectfully Submitted,

VIDAS, ARRETT & STEINKRAUS, P.A.

Date: March 29, 2006

By: _____
James M. Urzedowski
Reg. No. 48,596

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

Certificate of Transmission
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 571-273-8300, on March 29, 2006.

Signature: Rebecca M. Painabob

IFW

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MAR 2 9 2006

OFFICE OF PETITIONS
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	**N. Southway and A. Pelkonen**
Application No.:	**11/093,172**
Filed:	**March 29, 2005**
For:	**Modular Muffler**
Examiner:	**Unknown**
Group Art Unit:	**2837**

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

Docket No.: P68.2-11854-US01

FACSIMILE TRANSMITTAL LETTER

DATE: March 29, 2006
TIME: 2:50pm

TO: Examiner
FACSIMILE NO.: 571-273-0025
GROUP ART UNIT: 2837
TOTAL NUMBER OF PAGES (including cover letter): 3

Following please find a 2 page Petition Under 37 CFR §1.55(c) to Accept an Unintentionally Delayed Claim of Priority Under 35 U.S.C. §119(a)-(d) for the Benefit of a Prior-Filed Foreign Application in addition to this 1 page Facsimile Transmittal Letter.

If a fee is required, Commissioner of Patents is hereby authorized to charge Deposit Account No. 22-0350 for any required fees. To the extent that any petition is required to consider this communication, please treat this as such a petition.

Respectfully Submitted,

VIDAS, ARRETT & STEINKRAUS, P.A.

Date: March 29, 2006

By: _____
James M. Urzedowski
Reg. No. 48,596

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

Certificate of Transmission
I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. 571-273-0025, on March 29, 2006.

Signature: Rebecca M. Painschab
Rebecca M. Painschab

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 2000
MINNETONKA MN 55343-9185

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JAN 03 2007

OFFICE OF PETITIONS

In re Application of	:	
Southway et al.	:	
Application No. 11/093,172	:	DECISION ON PETITION
Filed: 29 March, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. P68.2-11854-US01	:	

This is a decision on the renewed petition under 37 CFR 1.55(c), filed 16 August, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Canadian Application No. 2,462,240, filed on 29 March, 2004.

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director

may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application was filed on 29 March, 2005, which is after November 29, 2000 and within 12 months of 29 March, 2004 (the filing date of the foreign application to which benefit is now being claimed). On 16 August, 2006, an Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370.00 was received with the petition filed on 29 March, 2006. 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.

This application is being referred to Technology Center AU 2837 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/093,172	03/29/2005	2837	565	P68.2B-11854-US01	2	7	3

CONFIRMATION NO. 7336

CORRECTED FILING RECEIPT

OC000000021146960

490
VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

Date Mailed: 11/07/2006

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)

Nigel Southway, Oakville, CANADA;
Arne Pelkonen, Toronto, CANADA;

Power of Attorney: The patent practitioners associated with Customer Number **490**.

Domestic Priority data as claimed by applicant

Foreign Applications

CANADA 2,462,240 03/29/2004

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
US11/093,172

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Modular muffler

Preliminary Class

181

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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Christopher & Weisberg, P.A.
200 East Las Olas Boulevard
Suite 2040
Fort Lauderdale, FL 33301

Mail Date: 04/21/2010

Applicant	: Domenic Santoianni	: DECISION ON REQUEST FOR
Patent Number	: 7591814	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,179	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1212** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:
George U. Sauter et al	:
Application No. 11/093,183	: DECISION GRANTING PETITION
Filed: March 28, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 245-184U1	:

This is a decision on the petition, filed July 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 14, 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 3691 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\july10\093183.wpd

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

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JONDLE & ASSOCIATES, P.C.
858 HAPPY CANYON ROAD, SUITE 230
CASTLE ROCK, CO 80108

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In re Application of	:	
Craig K. Chandler	:	
Application No. 11/093,191	:	DECISION ON PETITION
Filed: June 13, 2005	:	
Attorney Docket No. 1564-008 PP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 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 to File Missing Parts of Nonprovisional Application (Notice), mailed May 3, 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 July 4, 2006. A Notice of Abandonment was mailed September 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, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

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

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to the Office of Patent Application Processing for further processing in accordance with this decision on petition.

Liana Walsh
Petition Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

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OCT 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Tremblay, Chaudhry and Jacobson	:	DECISION ACCORDING STATUS
Application No. 11/093,197	:	UNDER 37 CFR 1.47(a)
Filed: March 29, 2005	:	
Attorney Docket No. SUM04-0061	:	

This is in response to the petition under 37 CFR 1.47(a), filed on May 23, 2005.

The petition is granted.

Petitioner showed that Quinn A. Jacobson, the non-signing inventor, refused to join in the filing of the above-identified application. Specifically, the petition included an email from Mr. Jacobson dated November 18, 2004, stating that he unwilling to review and sign any of SUN Microsystems's patents because of their confidential nature.

The Office reviewed the above-identified application and papers and found them 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.

This matter is being referred to Technology Center 2183 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Quinn A. Jacobson
598 Sunnymount Avenue
Sunnyvale CA 94087

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OCT 0 4 2005

OFFICE OF PETITIONS

LETTER

In re Application of :
Tremblay, Chaudhry and Jacobson :
Application No. 11/093,197 :
Filed: March 29, 2005 :
Attorney Docket No. SUM04-0061 :
For: STORING RESULTS OF RESOLVABLE :
BRANCHES DURING SPECULATIVE :
EXECUTION TO PREDICT BRANCHES :
DURING NON-SPECULATIVE EXECUTION :

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.

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 Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

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Mailed: FEB - 7 2007

In re application of	:	
Tomohiro Inoue et al.	:	DECISION ON
Serial No. 11/093,207	:	PETITION
Filed: March 30, 2005	:	
For: LIQUID ELECTROCHEMICAL GAS SENSOR	:	

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on November 02, 2006.

37 CFR 1.102. Advancement of examination.

(a)Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

(b)Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c)A petition to make an application special may be filed without a fee if the basis for the petition is:

(1)The applicant's age or health; or

(2)That the invention will materially:

(i)Enhance the quality of the environment;

(ii)Contribute to the development or conservation of energy resources; or

(iii)Contribute to countering terrorism.

(d)A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

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

The Petition is **DENIED**.

Please note that effective August 25, 2006, the rules for a petition to make special have changed. Any resubmission by the applicant must comply with the new rules.

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

William Krynski, SPRE
Technology Center 1700
Chemical and Materials Engineering

Robert B. Murray
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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Mailed: 2-20-07

In re application of	:	
Inoue, et al.	:	DECISION ON
Serial No. 11/093,207	:	PETITION
Filed: March 30, 2005	:	
For: LIQUID ELECTROCHEMICAL GAS SENSOR	:	

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on March 30, 2005. 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

Robert B. Murray
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
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SUITE 1200
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OFFICE OF PETITIONS

In re Application of	:	
Robert Payne	:	
Application No. 11/093,235	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHFRAW
Attorney Docket No. 006773.00002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR 1.36(b) filed March 7, 2006.

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

A review of the file record indicates that the power of attorney to the firm of Banner & Witcoff, LTD. has been revoked by the assignee of the patent application on November 30, 2006. Accordingly, the request to withdraw under 37 CFR 1.36(b) is moot.

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

Telephone inquiries concerning this decision should be directed to Carl Friedman at 571-272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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
11/093,253	03/29/2005	3673	1000	8266-1422	12	19	3

CONFIRMATION NO. 5015

CORRECTED FILING RECEIPT

OC000000016205192

Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

Date Mailed: 06/07/2005

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

Applicant(s)

David W. Hensley, Milan, IN;
Sebastien Gemeline, Lorient, FRANCE;
Yann Dollo, Belz, FRANCE;

Power of Attorney:

James Coles–28291
Timothy Niednagel–33266
Douglas Yerkeson–39882
Richard Carter–40549
Robert Null–40746
William Meyers–42884
Norman Hedges–44151
Christine Orich–44987
Ryan Barker–47405
Charles Arnett–51414

Domestic Priority data as claimed by applicant

This application is a CON of 10/399,465 04/18/2003 PAT 6,874,179
which is a 371 of PCT/FR01/03224 10/18/2001

Foreign Applications

FRANCE 00/13366 10/19/2000

If Required, Foreign Filing License Granted: 04/22/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/093,253

Projected Publication Date: 08/04/2005

Non-Publication Request: No

Early Publication Request: No

Title

Bed with articulated barrier elements

Preliminary Class

005

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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DLP PIPER US LLP
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RESTON, VA 20195

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OFFICE OF PETITIONS

In re Application of :
Cory Wajda et al :
Application No. 11/093,261 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 313530-P0009

This is a decision on the petition, filed February 12, 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 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2812 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 : 12-21-08

TO SPE OF : ART UNIT 2886

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/093264 Patent No.: 7466405

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

_____ **SPE** 2886 **Art Unit**

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

SHEMWELL MAHAMEDI LLP
4880 STEVENS CREEK BOULEVARD, SUITE 201
SAN JOSE CA 95129

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JUN 28 2007

OFFICE OF PETITIONS

In re Application of	:	
YASUMURA, et al.	:	
Application No. 11/093,266	:	DECISION ON PETITION
Filed: March 28, 2005	:	TO WITHDRAW
Attorney Docket No. SIPI.P132	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles E. Shemwell 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: **GARY YASUMURA**
1085A ALTA MIRA DRIVE
SANTA CLARA, CA 95051

cc: **RONALD R. SHEA**
6244 ROYAL OAK COURT
SAN JOSE, CA 95123

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JUL 18 2005

Direc... Group 3700

REED SMITH LLP
1650 Market Street
2500 One Liberty Place
Philadelphia, PA 19103

In re application of
Leonard Abrams

Serial Number: 11/093267
Filed: April 11, 2005

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

For: **DEVICES AND METHODS OF TREATMENT OF WOUNDS AND BURNS AND RELATED IMPAIRED BLOOD CIRCULATION PROBLEMS**

This is a decision on the petition filed on March 29, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

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

rt: 7/14/05

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FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

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OFFICE OF PETITIONS

In re Application of
Mark Staples, et al.
Application No. 11/093,268
Filed: March 28, 2005
Attorney Docket No. GLYO-P01-003

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 24, 2006.

The request is **APPROVED**.

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

The request was signed by David P. Halstead on behalf of all attorneys of record who are associated with customer No. 28120.

All attorneys/agents associated with the Customer No. 28120 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Mark Staples
10 Rogers Street
#906
Cambridge, MA 02142

cc: Mark G. DeGiacomo
Murtha Cullina LLP
99 High Street
20th Floor
Boston, MA 02110

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/093,268	03/28/2005	Mark Staples	GLYO-P01-003

CONFIRMATION NO. 5833

OC000000021026566

OC000000021026566

28120
FISH & NEAVE IP GROUP
ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

Date Mailed: 10/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/24/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of	:	
Frank Manchak, Jr.	:	
Application No. 11/093,273	:	DECISION ON PETITION
Filed: March 28, 2005	:	TO WITHDRAW
Attorney Docket No. 00838/100H889-US1	:	FROM RECORD
	:	

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, 2007.

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor Frank Manchak, Jr. at the address indicated below.

There is an outstanding Office action mailed October 12, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Frank Manchak, Jr.**
ATW Incorporated
215 Hitchcock Way, Apt. 103
Santa Barbara, CA 93105

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O.BOX 8910
RESTON VA 20195

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Schulke, Andreas	:	
Application No. 11/093,281	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 32860-000743/US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed July 25, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2169 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/21/2010

Applicant	: Chandra Mouli	: DECISION ON REQUEST FOR
Patent Number	: 7573113	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,286	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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In re Application of :
Hiroki Yoshikawa et al :
Application No. 11/093,297 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 0171-1195PUS1

This is a decision on the petition, filed November 18, 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 October 31, 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 1795 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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FALLS CHURCH, VA 22040-0747

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In re Application of :
Hiroki Yoshikawa et al :
Application No. 11/093,297 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 0171-1195PUS1

This is a decision on the petition, filed November 18, 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 October 31, 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 1795 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

Mail Date: 04/20/2010

Applicant	: Hiroki Yoshikawa	: DECISION ON REQUEST FOR
Patent Number	: 7598004	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,297	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **722** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/093,321	03/30/2005	Joseph E. Owensby	D-43851-01

Thomas C. Lagaly
Sealed Air Corporation
P.O. Box 464
Duncan SC 29334

DATE MAILED: October 20, 2006

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)
The declaration of/ express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d) filed on October 10, 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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Thomas L. Adams
P.O. Box 340
120 Eagle Rock Avenue
East Hanover NJ 07936

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OFFICE OF PETITIONS

In re Application of
Haggerty
Application No. 11/093,327
Filed: March 29, 2005
Attorney Docket No. HGG7
For: A MODULAR DRIP PAN SYSTEM

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 18, 2006 (certificate of mailing date April 12, 2006), to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed May 16, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on July 17, 2005. A Notice of Abandonment was mailed on January 30, 2006.

Applicant has submitted a proper reply to the May 16, 2005 Notice in the form of the basic filing fee, search fee, examination fee, and surcharge, an executed declaration, and a substitute specification, an acceptable statement of the unintentional nature of the delay in responding to the May 16, 2005 Notice, and the petition fee.[1] Accordingly, the petition under 37 CFR 1.137(b) is granted

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

[1] 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.

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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OFFICE OF PETITIONS

PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

In re Application of	:	
Guthart, et al.	:	
Application No. 11/093,372	:	DECISION
Filed: 30 March, 2005	:	ON PETITION
Attorney Docket No.: ISRG0200US	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 4 September, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §120 and §119(e) for the benefit of priority to a prior-filed application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) must be accompanied by:

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

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

It appears that Petitioner has failed to file an amendment to provide the reference required.

The amendment as drafted (incorporated into a petition) is unacceptable and, therefore, is not considered a proper reference under 37 C.F.R. §1.78(a)(3) §1.78(a)(5)(i).

Application No. 11/093,372

Accordingly, the petition under 37 CFR 1.78(a)(3) is **dismissed**.

This matter is being referred to Technology Center AU 3769 for further processing in due course.

Any inquiries concerning this decision may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
Office of Petitions

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PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE CA 94086

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OFFICE OF PETITIONS

In re Application of	:	
Guthart, et al.	:	
Application No. 11/093,372	:	DECISION
Filed: 30 March, 2005	:	ON PETITION
Attorney Docket No.: ISRG0200US	:	

This is a decision on the petition under 37 C.F.R. §1.78(a)(3), filed 30 December, 2009, to accept an unintentionally delayed claim pursuant to 35 U.S.C. §120 and §119(e) for the benefit of priority to a prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. §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 C.F.R. §1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) and §1.78(a)(6) must be accompanied by:

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

The original petition (4 September, 2009) was dismissed on 22 December, 2009, for failure to comply with item (1) above: Petitioner failed to file an amendment to provide the reference required, and instead incorporated an amendment into the petition, which is not a proper reference pursuant to 37 C.F.R. §1.78(a)(3) §1.78(a)(5)(i).

Application No. 11/093,372

Petitioner now submits an amendment in addition to the petition as required by the Rule.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §120 and §119(e) is accepted as being unintentionally delayed.

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

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

This application is being forwarded to the examiner of Technology Center/AU 3769 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§120 and 365(c) to the above-noted, prior-filed application.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr., attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisory 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
11/093,372	03/30/2005	3769	1250	ISRG0200US	50	3

CONFIRMATION NO. 6142

CORRECTED FILING RECEIPT

51947
PATENT DEPT
INTUITIVE SURGICAL OPERATIONS, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE, CA 94086

OC000000042314340

Date Mailed: 06/28/2010

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

Applicant(s)

Gary S. Guthart, Mountain View, CA;
David Q. Larkin, Menlo Park, CA;
David J. Rosa, San Jose, CA;
Paul W. Mohr, Mountain View, CA;
Giuseppe Prisco, Mountain View, CA;

Assignment For Published Patent Application

Intuitive Surgical INC., Sunnyvale, CA

Power of Attorney: The patent practitioners associated with Customer Number 51947

Domestic Priority data as claimed by applicant

This application is a CIP of 10/314,001 12/05/2002 PAT 7,107,090
which is a CON of 09/464,455 12/14/1999 PAT 6,522,906
which is a CIP of 09/457,406 12/07/1999 PAT 6,799,065
This application 11/093,372
is a CIP of 10/644,406 08/19/2003 ABN
which is a CON of 10/163,626 06/05/2002 PAT 6,671,581 *
which is a CON of 09/373,678 08/13/1999 PAT 6,424,885
which claims benefit of 60/128,160 04/07/1999
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 04/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/093,372**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Non-force reflecting method for providing tool force information to a user of a telesurgical system

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

NOT GRANTED

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

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WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Toler	:	
Application No.: 11/093385	:	ON PETITION
Filing or 371(c) Date: 03/30/2005	:	
Attorney Docket Number:	:	
6197P2918	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed November 29, 2007.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed November 14, 2006. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on February 15, 2007. A Notice of Abandonment was mailed May 25, 2007.

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

This application is being referred to Technology Center Art Unit 3676 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

In re Application of	:	
Roger Y. Ysien et al.	:	
Application No. 11/093,399	:	DECISION ON PETITION
Filed: March 29, 2005	:	TO WITHDRAW
Attorney Docket No. 02307E-152711US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 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 Kenneth E. Jenkins and all attorneys/agents of record has been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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www.uspto.gov

TROUTMAN SANDERS LLP
600 PEACHTREE STREET , NE
ATLANTA GA 30308

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MAR 13 2006
OFFICE OF PETITIONS

Applicant: Kollmann
Appl. No.: 11/093,405
Filing Date: march 30, 2005
Title: WARNING PLATE ASSEMBLY FOR INDICATING THE EXCESS WIDTH OF A TRACTOR, IN PARTICULAR AN AGRICULTURAL TRACTOR
Attorney Docket No.: AGCO/LTD7
Pub. No.: US 2005/0217156 A2
Pub. Date: October 6, 2005.

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on November 2, 2005, for the above-identified application.

The request is granted.

The instant request is that the application be republished because the front page of the patent application publication includes a material mistake, as the sole inventor is listed as Amar K. Mohanty, however, the only inventor listed on the declaration is Anton Kollmann.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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:
CAMP, William O., Jr.
Application No.: 11/093,406
Filed: March 30, 2005
Attorney Docket No.: 9314-112

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

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United States Patent and Trademark Office
P.O. Box 1450
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JOSEPH S. TRIPOLI
THOMSON LICENSING INC.
2 INDEPENDECE WAY
P. O. BOX 5312
PRINCETON NJ 08543-5312

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MAR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Prigent, et al.	:	
Application No. 11/093,413	:	DECISION
Filed: 30 March, 2005	:	
Attorney Docket No. PF 040050	:	

This is a decision on the petition filed on 2 February, 2009, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 27 June, 2008, with reply due absent extension of time on or before 27 September, 2008.

On 2 January, 2009, Petitioner submitted (over what appears to be a (Monday) 29 December, 2008, certificate of mailing), *inter alia*, a request and fee for extension of time, an amendment after final, 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 21 January, 2009, the Examiner mailed an Advisory Action.

The application went abandoned after midnight 27 September, 2008

On 2 February, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b) averring unintentional delay, 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 the previously filed amendment, and made the statement of unintentional delay.

As of this writing it does not appear that the Office mailed a Notice of Abandonment before a petition was filed.

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]))

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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

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 2416 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

---

[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

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DIW Apr-10

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

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APR 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Engstad et al.	:	
Application Number: 11/093427	:	ON PETITION
Filing Date: 03/30/2005	:	
Attorney Docket Number: 3403-106	:	

This is a decision on the petition filed under 37 CFR 1.182 on February 1, 2010, requesting that a terminal disclaimer filed in Application No. 08/716,344 be withdrawn.

The petition is dismissed as moot.

The present petition requests that a terminal disclaimer, filed on July 27, 2005 in Application No. 08/716,344, of which the present application is a continuation, be withdrawn.

The petition filed in Application No. 11/093,427 to withdraw a terminal disclaimer filed in Application No. 08/716,344 is inappropriate, as a petition must be filed in the application or patent for which the relief requested in the petition is sought. Additionally, as no terminal disclaimer was filed in the present application on July 27, 2005, no terminal disclaimer filed on that date may be withdrawn in this application. The petition is therefore dismissed as moot.

The petition fee of $400.00 will be refunded to counsel's credit card.

The application file is being referred to Technology Center Art Unit 1651 for further processing.

Telephone inquires should be directed to the undersigned at 571.272.3231.

Douglas Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DARBY & DARBY
P.O. BOX 5257
NEW YORK, NY 10150-5257

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of	:	
Erich Hoffmann	:	
Application No. 11/093,430	:	DECISION ON PETITION
Filed: March 29, 2005	:	TO WITHDRAW
Attorney Docket No. 02427/100G772-US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 2005.

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

A review of the file record indicates that the previously appointed power of attorney has been revoked by applicant. 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.

This application is being referred to Technology Center AU 1648 to await a reply to the non-final Office action mailed March 13, 2006.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: STERNE KESSLER GOLDSTEIN & FOX
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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Clifford F. Rey
Sonnax Industries, Inc.
Automatic Drive
Bellows Falls VT 05101-0440

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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Maura Jane Stafford :
Application No. 11/093,435 :
Filed: July 15, 2005 :
Attorney Docket No. P-34200ASSY14(UT) :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 11, 2005, requesting that the Office accord the above-identified application the later filing date of July 11, 2005; the date applicant filed omitted Figures 8A-C with the USPTO.

On March 29, 2005, applicant deposited the above-identified application. However, on June 13, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of March 29, 2005, and advising applicant that Figures 8A-C appeared to have been omitted from the application.

In response, on July 11, 2005, applicant submitted the present petition, the $400.00 petition fee, an executed declaration and Figures 8A-C. Applicant requested that the Office accord the above-identified application the later filing date of July 15, 2005; the date applicant filed Figures 8A-C with the USPTO.

The petition is **granted**.

The application has undergone pre-exam processing and a corrected filing receipt was mailed on July 26, 2005, indicating that the application was accorded a filing date of July 15, 2005, with 8 sheets of drawings as part of the original disclosure. A copy of the corrected filing receipt, dated July 26, 2005, accompanies this decision.

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

Enclosure: Corrected Filing Receipt, dated July 26, 2005 – 3 pages

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JJGJr: 08-05

Paper No: __

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK NY 10150-5257

COPY MAILED
AUG 14 2005
OFFICE OF PETITIONS

In re Application of :
Fujita :
Application No. 11/093,438 : ON PETITION
Filed: 29 March, 2005 :
Attorney Docket No. 05677/00202741-US0 :

This is a decision on the petition filed on 29 June, 2005, considered under 37 C.F.R. §1.53, to obtain a filing date of 29 March, 2005, for pages 9 - 16 of the specification of the instant application.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

After this application was deposited on 29 March, 2005:

- on 6 June, 2005, the Office mailed a Notice of Omitted Items (The Notice) stating that, while the application had been accorded a filing, it appeared that pages 9 - 16 of the specification (description and claims) had been omitted. OIPE indicated that Petitioner might: contend via petition that the pages in question had been submitted, submit the omitted pages and accept the date of submittal as the filing date, or accept the application without the omitted pages, and OIPE set a two- (2-) month period for reply;

- Petitioner filed the instant petition (with fee) on 29 June, 2005, with, *inter alia*, a copy of the date-stamped ("032905") receipt card (see: MPEP §503[1]), a copy of the application as

[1] MPEP §503 provides in pertinent part:
§503 Application Number and Filing Receipt

* * *

averred to have been filed, including pages 9 - 16, and a request for a filing date of 29 March, 2005, for those pages.

Analysis

A search of the official file reveals that:

- on 29 March, 2005, Petitioner deposited the instant application;
- the date-stamped receipt card evidences the following, in pertinent part:

* * *

Specification (16 pp.); (Claims (2pp); Abstract (1pg)

* * *

Before the instant filing, the Office record contained: Specification: pages 1 - 8, Claims: pages 17 - 18; and Abstract: page 19.

Because Petitioner's receipt card adequately itemized the contents of the application on the

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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.)

receipt card, it is concluded that the application, including pages 9 - 16 of the specification, was deposited with the Office on 29 March, 2005, and the pages 9 - 16 of the specification subsequently were misplaced in the Office.

Accordingly, the application, including pages 9 - 16, is entitled to a filing date of 29 March, 2005.

The Notice mailed on 6 June, 2005, was sent in error and is hereby vacated to the extent that it stated that the application was filed omitting pages 9 - 16.

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 29 March, 2005, for the entire application with pages 1 - 19 of the specification (description, claims and abstract) and in particular for pages 9 - 16 of the specification, and 9 sheets of drawings, as described in the specification, using:

- **pages 1 - 8 and 17 - 19 of specification (description, claims and abstract) and 9 sheets of drawings deposited on 29 March, 2005; and**
- **pages 9 - 16 of the specification deposited on 29 June, 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 29 March, 2005, and reflecting therein that 19 pages of specification (description, claims and abstract) and 9 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
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JJGJR.: 11-06

Paper No: __

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OFFICE OF PETITIONS

ANGUS C. FOX, III
4093 N. IMPERIAL WAY
PROVO UT 84604-5386

In re Application of	:	
Macdonald	:	
Application No. 11/093,439	:	DECISION
Filing Date: 30 March, 2005	:	
Attorney Docket No.: JVM04-01	:	

This is a decision on the petition filed on 24 May, 2006, seeking revival of the application and so considered under 37 C.F.R. §1.137(b), but averring error by the Office and so considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181 (see: later-filed petition of 24 November, 2006).

The Office regrets the delay in addressing this matter, however, as will be seen it was not Office error that triggered the mailing of the Notice of Abandonment or the delay in addressing the instant matter.

For the reasons set forth below, the petition considered under 37 C.F.R.§1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be

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.

BACKGROUND

The record reflects that:

- Applicant failed to reply timely and properly to the non-final Office action mailed on 1 September, 2005, with reply due absent and extension of time on or 1 December, 2005;
- the instant application went abandoned after midnight 1 December, 2005;
- the Office mailed a Notice of Abandonment on 21 March, 2006;
- on 24 May, 2006, Petitioner filed the instant petition(s) (over a 19 May, 2006, certificate of mailing), but tendered/authorized no fee, filed no reply to the Office action in question, made no statement of unintentional delay; averred error by the Office in declaring the application abandoned.

Further review of the record indicates that:

- Petitioner in fact filed papers–a reply in the form of an amendment–on 7 March, 2006, over a 1 March, 2006, certificate of mailing with a request and fee for extension of time, however Petitioner filed the amendment bearing the number 10/940,068 rather than the proper number of the instant application;
- moreover, when he filed the instant petition, Petitioner again placed on those papers the incorrect number of 10/940,068 rather than the proper number of the instant application.

The Office has since transferred a copy of Petitioner's reply (amendment) into the instant file, and has done the same with a copy of the instant petition.

After many attempts to respond to Petitioner's telephone, the undersigned was finally able to reach Petitioner and at that time alerted Petitioner to this error and cautioned him to correct the error in his computer file(s) so as to prevent recurrence of the problem.

Further, Petitioner was and is reminded that a petition under the provisions of 37 C.F.R. §1.137(a) or (b) requires a petition, a fee, a reply, and a showing of unavoidable or unintentional delay, respectively.

Out of an abundance of caution, Petitioners always are reminded that:

- the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and

- those registered to practice *and* all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[5] And the Petitioner must be diligent in attending to the matter.[6] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

Allegations as to the Request to Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

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[2] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[4] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous

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[8] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

And the regulation (37 C.F.R. §1.181[9]) requires that relief be sought within two (2) months of the

---

[9] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Director.

<>

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(f) 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

act complained of.

Petitioner appears to have satisfied the "showing" or "timeliness" requirements described above.

As to the Allegations
of Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears this matter is moot.

CONCLUSION

It appears that Petitioner has satisfied the burdens set forth in Delgar v. Schulyer, the petition as considered under 37 C.F.R. §1.181 hereby is **granted**; and the petition as considered under 37 C.F.R. §1.137(b) is **dismissed as moot**.

The instant matter is released to Technology Center 3600 for further processing in due course.

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may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.
(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.
[24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004]

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Eric Maurice Smith	: DECISION ON REQUEST FOR
Patent Number	: 7569728	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,455	: OF WYETH
Filed	: 03/30/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK A. QUILANTAN
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AUG 2 3 2007

OFFICE OF PETITIONS

In re Application of :
Mark Anthony Quilantan :
Application No. 11/093,459 :
Filed: March 29, 2005 :
For: NOTE-PAD HOLDER WITH :
INCORPORATED PAGE MARK/COVER STRAP
AND WRITING UTENSIL HOLDER

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 27, 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 27, 2005, requiring the submission of a $250 search fee. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 28, 2005. A Notice of Abandonment was mailed on September 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of the $250 search fee, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of April 27, 2005 is accepted as being unintentionally delayed.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision.

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No. None

Mark J. Pandiscio
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AUG 14 2005
OFFICE OF PETITIONS

In re Application of :
Yasuhiro Matsui et al. :
Application No. 11/093,461 : DECISION ON PETITION
Filed: March 30, 2005 :
Attorney Docket No.: TAYE-35 :
Title: REACH EXTENSION BY USING :
EXTERNAL BRAGG GRATING FOR :
SPECTRAL FILTERING

This is a decision on the petition filed June 29, 2005, requesting that Figures 2 and 3 be accorded a filing date of March 30, 2005, as part of the original disclosure.

The application was deposited on March 30, 2005. However, on April 27, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of a Nonprovisional Application (notice)," stating that the application had been accorded a filing date of March 30, 2005, and that Figures 2 and 3 appeared to be omitted on filing. The notice further indicated that a properly executed oath or declaration would be required, along with the associated surcharge, and set a two-month period for response.

In response, on June 29, 2005, applicants filed the present petition. The petition is further accompanied by a postcard receipt acknowledging receipt of "Formal Drawings sheets (15)" in the United States Patent and Trademark Office (Office) on March 30, 2005. Applicants request that Figures 2 and 3 be accorded a filing date of March 30, 2005 as part of the original disclosure.

It is noted that 13 sheets of drawings, containing Figures 1 and 4-15, have been located in the electronic file.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on March 30, 2005 included Figures 2 and 3, and the sheets containing these figures were subsequently misplaced in the Office.

Therefore, the application, including Figures 2 and 3, was complete on filing and this figure is entitled to a filing date of March 30, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed April 27, 2005 referring to the missing drawing was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. The petition fee of $400 will be refunded to Petitioner's Deposit Account.

The Office of Initial Patent Examination will be advised to process this application with a filing date of March 30, 2005, using the original application papers filed on that date, as well as Figures 2 and 3 submitted on June 29, 2005 with the present petition and for indication in Office records that these figures were present on filing.

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

Paul Shanoski

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

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Yasuhiro Matsui	: DECISION ON REQUEST FOR
Patent Number	: 7558488	: RECALCULATION of PATENT
Issue Date	: 07/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,461	: OF WYETH
Filed	: 03/30/2005	:
		:

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/17/10 Paper No.: —

TO SPE OF : ART UNIT 3633

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/093465 Patent No.: 7712276 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 – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

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

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

Comments: _____

Brian Glen 3633

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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: James Edward Fox	: DECISION ON REQUEST FOR
Patent Number	: 7640587	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,476	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1052** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PATENT DEPARTMENT
540 WHITE PLAINS ROAD
P.O. BOX 2005
TARRYTOWN NY 10591

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In re Patent No. 7,538,247	:	
Issue Date: May 26, 2009	:	
Application No. 11/093,485	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. IN/3-22359/P3/CGC 2186	:	

This is a decision on the petition under 37 CFR 1.183 filed October 5, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request under 37 CFR 1.183 is **DISMISSED.**

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner.

Petitioner has requested that 37 CFR 1.323 be waived to permit the correct name of the Assignee to be provided after issuance of the patent. Since the petition does not include an extraordinary situation that justice requires, the USPTO does not have the authority to waive this requirement.

The request under 37 CFR 3.81(b) is **GRANTED**.

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,

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

> 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.

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.

The fee for the petition under 37 CFR 1.183 will be charged to petitioner's Deposit Account No. 03-1935.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

for T. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

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NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY
SUITE 200
PRINCETON NJ 08540

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OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	
Application No. 11/093,516	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 04004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 17, 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 timely obtained. Accordingly, the application became abandoned on August 18, 2007. A Notice of Abandonment was mailed January 10, 2008.

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

Additionally, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00, three month extension of time fee submitted on April 23, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 2613 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Palo Alto, CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Jian Liu	:	
Application No. 11/093,519	:	ON PETITION
Filed: March 29, 2005	:	
Attorney Docket No. LJ0501	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 6, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 7, 2007. A Notice of Abandonment was mailed on April 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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 petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

This application is being referred to Technology Center AU 2828 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
Petitions Examiner
Office of Petitions

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1000 ELM STREET
MANCHESTER, NH 03105-3701

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OFFICE OF PETITIONS

In re Application of	:	
SHAW, et al.	:	
Application No. 11/093,524	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. THERM.1014	:	FROM RECORD
	:	

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 13, 2007.

The request is **NOT APPROVED.**

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

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: THOMAS O. HOOVER
WEINGARTEN SCHURGIN GAGNEBIN & LEBOVICI, LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of :
Szu-Min Lin et al :
Application No. 11/093,526 : DECISION ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. JJM-0408CIP3 :

This is a decision on the petition, filed May 8, 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 timely pay the issue and publication fees on or before March 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 17, 2008.

Petitioner asserts that the Notice dated December 17, 2008 was not received. Petitioner also states "A Change of Correspondence Address was filed in the USPTO on October 20, 2008 which does not appear to have been acknowledged by the Office."

Office record show the Notice mailed December 17, 2008 was properly mailed to the address of record. The change of correspondence address received October 20, 2008 was signed by Blossom E. Loo. A power of attorney was received on January 25, 2008 which revoked Blossom E. Loo as the attorney or agent of record. Office record does not list Blossom E. Loo was the attorney or agent of record at that time which is a requirement to change the correspondence address. See 37 CFR 1.33. Therefore, the correspondence address was not changed.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to

the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered had it been received must be attached to and referenced in the practitioner'statement.

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

The petition fails to satisfy all of the above-stated requirements.

Accordingly, absent the required evidence to establish nonreceipt of the Notice of December 17, 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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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OFFICE OF PETITIONS

In re Application of	:	
Szu Min Lin et al	:	
Application No. 11/093,526	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. JJM-0408CIP3	:	

This is a decision on the renewed petition, filed September 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 timely pay the issue and publication fees on or before March 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 17, 2008.

Petitioner asserts that the Notice dated December 17, 2008 was not received.

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

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'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 AU 1797 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of March 17, 2009. The period for paying the issue and publication fees and submitting corrected drawings will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Irvin Dingle
Petitions Examiner
Office of Petitions

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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 05/21/2010

Applicant	: Daniel G. Waddington	: DECISION ON REQUEST FOR
Patent Number	: 7624385	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/093,530	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **941** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EPSTEIN DRANGEL BAZERMAN & JAMES, LLP
60 EAST 42ND STREET
SUITE 820
NEW YORK, NY 10165

Mail Date: 04/21/2010

Applicant	: Harry Soroff	: DECISION ON REQUEST FOR
Patent Number	: 7641900	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,540	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TWO EMBARCADERO CENTER
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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
WINSLOW, Charles J. et al.	:	
Application No. 11/093,557	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. **19433A-005140US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 09, 2007.

The request is **APPROVED**.

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

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CHARLES J. WINSLOW**
25 HILTON COURT
WALNUT CREEK, CALIFORNIA 94595

cc: **DAVID L. MCCOMBS**
HAYNES AND BOONE, LLP
2505 N. PLANO ROAD
SUITE 4000
RICHARDSON, TX 75082

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

MAILED

JAN 13 2006

TECHNOLOGY CENTER 2100

In re Application of: KANO, et al.
Application No. 11/093,604
Filed: March 29, 2005
For: DATA COPYING METHOD AND APPARATUS IN A THIN PROVISIONED SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER MPEP §708.02 (VIII)

This is a response to the petition filed 02 December 2005, under 37 CFR §1.102(d) and MPEP §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **GRANTED**.

MPEP §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in MPEP § 708.02, Section VIII.

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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

NOV 2 9 2006

In re Application of	:	ap
Morinobu Endo et al.	:	DECISION
Serial No. 11/093,616	:	ON
Filed: March 30, 2005	:	PETITION
For: ULTRA CARBON FIBERS	:	UNDER 708.02,VIII

This is in response to the petition filed June 23, 2005, requesting that the above-identified application be granted Special Status. The petition has been considered under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(c) (fee paid).

The petition has been found to be deficient for the following reason: Section 708.02, VIII(C) requires that a pre-examination search be made; this search should cover all areas searchable by the examiner. However, our review shows that claim 422 chemical apparatus was indicated as a search field, yet no claims are drawn to an apparatus. Class 977, Nanotechnology was not consulted. The terms used in the search are excessively narrow and do not reflect the CLAIMED invention. Terms such as filament, whisker, fiber, etc,. are synonyms for "fibrous". The term "fiber" is used in the claims, yet not part of the search.

The discussion of the prior art, which was found, is inadequate. The discussion of Gogotsi is speculative; the differences are argued as "likely". The arguments fail to consider 103 as a component for patentability. The argument of a multistage process is not in and of itself sufficient for clear patentability, especially since an additional step of graphitization of carbonized materials is routine in the art.

It is noted that the claims are clearly drawn to multiple inventions, and restriction is appropriate.

Accordingly, the petition is **DENIED.**

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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PO BOX 55630
PHOENIX AZ 85078

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JUL 1 8 2005

OFFICE OF PETITIONS

In re Application of	:	
Ritchey, et al.	:	
Application No. 11/093,629	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 1019-P-5	:	

This is a decision on the "PETITION TO SECURE FILING DATE UNDER 37 C.F.R. 1(f)", filed April 4, 2005, which is being treated as a petition under 37 C.F.R. § 1.53 to accord the above-identified application a filing date of March 30, 2005, with 19 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on March 30, 2005. However, on May 17, 2005, the Initial Patent Examination Division mailed applicant a "Notice of Incomplete NonProvisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition. Accompanying the petition was a copy of 19 drawing sheets. Applicants maintain that the application as originally filed included 19 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "NINETEEN (19) OF FORMAL DRAWINGS (FIGS. 1-32)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of March 30, 2005, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $400 petition fee will be refunded under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 30, 2005, using the application papers received in the Office on that date and the 19 pages of drawings as resupplied on petition filed May 23, 2005, and for indication in Office records that 19 sheets of drawings was present on filing.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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JOHN S. BEULICK (12729)
C/O ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Anant Pal Singh	: DECISION ON REQUEST FOR
Patent Number	: 7634913	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1288** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/10/07

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/093,644 Patent No.: 7127999

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

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

3617
Art Unit

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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MAY 19 2009

OFFICE OF PETITIONS

In re Patent No. 7,482,372
Issued: January 27, 2009
Application No. 11/093,670
Filed: March 30, 2005
Attorney Docket No. PH7350D1V2

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 C.F.R. §§ 1.181 & 1.705(d)" filed March 10, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred ninety (590) days to eight hundred ninety-three (893) days.

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

On January 27, 2009, the above-identified application matured into US Patent No. 7,482,372 with a patent term adjustment of 590 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

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

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are "entitled to a total patent term adjustment of 893 days, which is the sum of 303 days of patent term adjustment due to exceeding three year pendency and 590 days due to USPTO delay in prosecution."

The 303-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 30, 2005, and the patent having been issued on January 27, 2009, three years and 303 days later. Patentees assert that in addition to this 303-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 590 days for the failure by the Office to mail at least

one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. In this instance there is no dispute that there has been no reduction for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (303 days) and the period of Examination Delay (590 days) to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of 14-month examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 893 days, which is the sum of the period of Three Year Delay (303 days) and the period of Examination Delay (590 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 893 days (303 + 590 reduced by 0 overlap – 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on January 27, 2009, the application was pending three years and 303 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of a period of adjustment of 590 days is correct. At issue is whether patentees should accrue 303 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 590 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 303 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

delayed.

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

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule

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

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

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. It is incorrect to treat the relevant period as starting on March 30, 2008, the date that is three years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 30, 2005, to the date the patent issued on January 27, 2009. Prior to the issuance of the patent, 590 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 303 days for Office delay in issuing the patent overlap with the 590 days of Office delay. During that time, the issuance of the patent was delayed by 590 days, not 590 + 303 days. The Office took 14 months and 590 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 590 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

application was pending three years and 303 days. The Office did not delay 590 days and then an additional 303 days. Accordingly, 590 days of patent term adjustment (not 590 and 303 days) was properly entered since the period of delay of 303 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 590 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 590 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 303 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
LAURYSSEN, Carl et al.	:	
Application No. 11/093,689	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. **19433A-005160US**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 09, 2007.

The request is **APPROVED**.

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

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 20350. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CARL LAURYSSEN**
729 N. BEDFORD DR.
BEVERLY HILLS, CA 90210

cc: **DAVID L. MCCOMBS**
HAYNES AND BOONE, LLP
2505 N. PLANO ROAD
SUITE 4000
RICHARDSON, TX 75082

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WOODCOCK WASHBURN LLP
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103

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SEP 25 2006
OFFICE OF PETITIONS

In re Application of	:	
DANIEL, et al.	:	
Application No. 11/093,692	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. FCCC-0020/02-15 CIP	:	FROM RECORD
	:	

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, 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 Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: DRINKER BIDDLE & REATH
Attn: Intellectual Property Group
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996

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2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
DANIEL, et al.	:	
Application No. 11/093,692	:	DECISION ON REQUEST FOR
Filed: March 30, 2005	:	REVOCATION OF POWER
Attorney Docket No. **FCCC-0020/02-15 CIP**	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed November 29, 2006.

The request is **APPROVED**.

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

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DRINKER BIDDLE & REATH**
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA, PA 19103-6996

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APR 13 2007

OFFICE OF PETITIONS

In re Patent No. 7,109,380	:	
Issue Date: September 19, 2006	:	
Application No. 11/093,695	:	ON PETITION
Filed: March 29, 2005	:	
Attorney Docket No. 11636N/040304	:	

This decision addresses a request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed September 5, 2006 and the request for refund, filed October 28, 2006, which is being treated as a petition under 37 CFR 1.181.

The fee deficiency under 37 CFR 1.28 is **accepted**.

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

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.

On October 26, 2006, petitioner filed a request for refund because petitioner alleges he was overcharged in connection with the aforementioned fee deficiency paper. The application was originally filed as a small entity. Petitioner changed to large entity status and authorized the Office to charge the balance due. The Office then charged large entity rates, not the balance due. Therefore, petitioner requests a refund.

On December 1, 2006, the Office refunded only a part of the excess charges. The Office refunded the excess payment with respect to the basic filing fee, total claims, independent claims, the utility search fee, and the utility examination fee. However, the Office did not refund the excess payment with respect to the issue fee. As of today, petitioner has been charged the full large entity issue fee ($1,400.00) and the full small entity issue fee ($700.00). Only the large entity fee is due.

The petition under 37 CFR 1.181 is **granted**. Pursuant to petitioner's request, the $700.00 small entity fee will credited to petitioner's credit card.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

In re Application of	:	
Philippe BOUKAERT, et al	:	
Application No. 11/093,714	:	ON PETITION
Filed: March 30, 2006	:	
Attorney Docket No. 200405469-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 3, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed August 4, 2009, which set a shortened statutory period for reply of **three (3) months**. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 5, 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).

With respect to item (1): A review of the Office record shows that the Request for Continued Examination (RCE) dated June 3, 2010, in response to the Office action of August 4, 2009, is improper. In this regard, the RCE is not accompanied by a proper submission (37 CFR 1.114),

because the submission is unsigned. Accordingly, the required reply is considered incomplete and does not meet the requirements as set forth in 37 CFR 1.137(b).

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

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

By Mail: Mail Stop PETITION
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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) 272-6735.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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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 :
Dimig, et al. :
Application No. 11/093,721 : DECISION ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 087801-9361-00 :

This is a decision on the petition, filed August 14, 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 became abandoned February 29, 2008 for failure to timely respond to the non-final Office action mailed November 28, 2007. The non-final Office action set a three month shortened statutory period for reply. A petition for three month extension of time was received June 26, 2008. Notice of Abandonment was mailed June 26, 2008.

Petitioners state that a timely reply, including a request for three month extension of time, was filed May 28, 2008. Petitioners provide a copy of a return postcard reference the reply and bearing a receipt date stamp of June 26, 2008.

In accordance with 37 CFR 1.8(b):

> "In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> > Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> >
> > Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and

> Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement."

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action is hereby withdrawn and the application restored to pending status.

This application is being returned to Group Art Unit 3673 for processing of the reply to the Office action.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Laurence B. Sperry	: DECISION ON REQUEST FOR
Patent Number	: 7603831	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **947** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of
Eric F. Vannerson et al.
Application No. 11/093,732
Filed: March 30, 2005
Attorney Docket No. 884.D96US1

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 11, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record cannot be withdrawn using customer number 45457, they were appointed by customer number 21186.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Cath Dikes**
Intel Corporation
M/S LF2 4040 Lafayette Center Drive
Chantilly, VA 201501

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OFFICE OF PETITIONS

In re Application of	:	
Seegert et al.	:	
Application No. 11/093,740	:	DECISION ON PETITION
Filed: 03/30/2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. NAN.105.US	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 5, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

This pending nonprovisional application was filed on March 30, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/587,708, which was filed on July 14, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

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

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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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Seegert et al.	:	
Application No. 11/093,740	:	DECISION ON PETITION
Filed: 03/30/2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. NAN.105.US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed December 21, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The matter is being referred to Technology Center AU 3731 for consideration by the examiner of the claim under 35 U.S.C. § 119(e) for the benefit of priority to the prior-filed provisional application.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/093,740	03/30/2005	3731	6330	NAN.105.US	29	100	9

CONFIRMATION NO. 7709

CORRECTED FILING RECEIPT

OC000000022061145

30159
LEGAL DEPARTMENT INTELLECTUAL PROPERTY
KINETIC CONCEPTS, INC.
P.O. BOX 659508
SAN ANTONIO, TX 78265-9508

Date Mailed: 01/19/2007

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

Applicant(s)

Charles Seegert, San Antonio, TX;
Royce W. Johnson, Universal City, TX;
A. David Boccuti, Arlington, MA;
Andrew Nicholas Gentile, Allston, MA;
Sy Griffey, Fiar Oaks Ranch, TX;
Teryl Blane Sanders, San Antonio, TX;

Power of Attorney: The patent practitioners associated with Customer Number **30159**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/629,001 11/18/2004
and claims benefit of 60/587,708 07/14/2004
and is a CIP of 10/075,743 02/14/2002 PAT 7,070,584
which claims benefit of 60/269,657 02/16/2001
This application 11/093,740
is a CIP of 10/379,342 03/03/2003

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
US11/093,740

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Skin grafting devices and methods

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of

technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Charles Seegert	: DECISION ON REQUEST FOR
Patent Number	: 7666192	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,740	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE, SC 29602-1449

Mail Date: 04/21/2010

Applicant	: Mark Gilmore	: DECISION ON REQUEST FOR
Patent Number	: 7621810	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,754	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **871** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OCT 16 2006

OFFICE OF PETITIONS

Applicant: Petasis
Appl. No.: 11/093,757
Filing Date: March 29, 2005
Title: TRIHYDROXY POLYUNSATURATED EICOSANOID DERIVATIVES
Attorney Docket No.: 187576/US/3
Pub. No.: US 2005/0228047 A1
Pub. Date: October 13, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on December 13, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors, the published application includes numerous errors in chemical formulas throughout the application such as the error in claim 7, compound 15, wherein the "I" appears as a line and on page 7, scheme 6 wherein the single bold bond appears as a double bond.

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 7 and page 7 along with the other errors noted by requestor are not material Office errors under 37 CFR 1.221. The errors noted by requestor with respect to the typographical errors in this published application are due to the poor quality of the text in the application. Some of the text in the chemical formula such as the subscripts and

[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).

superscripts are very small and not clearly legible, 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

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

FULBRIGHT & JAWORSKI L.L.P.
Attn: MN IP Docket
600 Congress Avenue
Suite 2400
Austin TX 78701

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MAR 0 3 2010

OFFICE OF PETITIONS

In re Patent No. 7, 582,785	: DECISION ON REQUEST
Nicos A. Petasis	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/093,757	: PATENT TERM ADJUSTMENT
Filed: March 29, 2005	: and
Atty Docket No. USCA-021/US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 21, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred forty-four (944) 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 forty-four (944) days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the 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 forty-four (944) 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

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,582,785 B2

DATED : Sep. 1, 2009

INVENTOR(S) : Petasis

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 (433) days

Delete the phrase "by 433 days" and insert – by 944 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

Frederick H. Gribbell
FREDERICK H. GRIBBELL, LLC
Suite 120
10250 Alliance Road
Cincinnati OH 45242

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of :
Barber, et al. :
Application No. 11/093,767 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No.:NEX-512 :

This is a decision on the "Petition to under 37 CFR 1.182 for nullifying a Terminal Disclaimer" filed October 19, 2007.

The petition to withdraw the terminal disclaimer is **dismissed**.

A review of the application file history reveals that a "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior Patent" was filed on January 11, 2007. On October 19, 2007, the instant petition was filed to withdraw the terminal disclaimer on the grounds that the terminal disclaimer is unnecessary because of the claims that were ultimately allowed. Examiner Daniel Robinson has determined that the terminal disclaimer is still necessary to obviate a double patenting rejection. Examiner Wang has determined that the terminal disclaimer is necessary because "Claim 16 was allowed after the terminal disclaimer was entered. The case was allowed after, and because, the terminal disclaimer was entered. New independent Claim 31 is narrower than Claim 13 . . . There is already a patent issued for Claim 16 and there would be two if the terminal disclaimer was withdrawn." The petition to withdraw the terminal disclaimer is dismissed based on Examiner Robinson's determination.

The application is being directed to the Technology Center 3700, GAU 3742 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222. Questions relative to the need for the terminal disclaimer should be directed to Robinson.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA OK 74103-3318

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MAR 0 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Stone, et al.	:	
Application No. 11/093,769	:	DECISION ON PETITION
Filed: March 30, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 65636/04-772	:	

This is a decision on the petition, filed September 11, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 29, 2006. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 7, 2007 accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on August 7, 2006. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, a Notice of Publication Fee Due is being mailed under separate cover since the nonpublication request has been rescinded. Petitioner should note that payment of the publication fee must be submitted within the period set forth in the Notice to avoid abandonment of the application.

This application is being forwarded to Publishing Division to await a reply to the Notice of Publication Fee Due mailed herewith.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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 DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/093,769	03/30/2005	Marvin Lyle Stone	65636/04-772

FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA OK 74103-3318

DATE MAILED:

NOTICE OF PUBLICATION FEE DUE

The above-identified application was filed on or after November 29, 2000 and a nonpublication request in compliance with 37 CFR 1.213 was included with the application on filing.

Since the application has been allowed, a publication fee is due.

The fee due is $300. No small entity discount is available. See 37 CFR 1.18(d).

The payment of publication fee should be mailed to:

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

Alternatively, an authorization to charge the publication fee to a deposit account or payment by credit card (form PTO-2038) may be submitted via facsimile transmission to (703) 746-4000.

The publication fee must be submitted within THREE MONTHS from the mailing date of this notice to avoid abandonment of the application. No extensions of time under 37 CFR 1.136(a) or (b) are available. If publication of the application does not occur, applicant may file a request for a refund after the patent issues. See 37 CFR 1.211(e).

Questions relating to this Notice should be directed to the patent publication hotline at (703) 605-4283 or by e-mail to pgpub@uspto.gov.

A copy of this notice should be returned with any reply.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/093,769	03/30/2005	Marvin Lyle Stone	65636/04-772

CONFIRMATION NO. 1122

22206
FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA, OK 74103-3318

Date Mailed: 03/01/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/07/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/093,769	03/30/2005	Marvin Lyle Stone	65636/04-772

CONFIRMATION NO. 1122

22206
FELLERS SNIDER BLANKENSHIP
BAILEY & TIPPENS
THE KENNEDY BUILDING
321 SOUTH BOSTON SUITE 800
TULSA, OK 74103-3318

Date Mailed: 03/01/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 06/07/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Vierra Magen Marcus & DeNiro LLP
575 Market Street, Suite 2500
San Francisco, CA 94105

Mail Date: 04/21/2010

Applicant	: Daniel Richard Mythen	: DECISION ON REQUEST FOR
Patent Number	: 7592018	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: 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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ALEXANDRIA, VA 22313-1450
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767 THIRD AVENUE
25TH FLOOR
NEW YORK NY 10017-2023

MAIL

MAY 2 6 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Dov Tibi, et al.
Application No. 11/093,788
Filed: March 29, 2005
For: **MONITORING ACCESS VIA A PASSAGE**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed March 29, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Dwayne Bost
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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/093,796	02/23/2005	Bailey	**2002-0136.03**

CONFIRMATION NO. 7753

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

Date Mailed: May 6, 2005

Letter Regarding Petition Under 37 CFR 1.182 Filed With Replacement Drawings

The petition under 37 CFR 1.182 filed April 25, 2005 is acknowledged.

The procedure for submitting replacement drawings by filing a petition under 37 CFR 1.182 and a petition fee has been eliminated. Mail Stop PGPUB Drawings has also been eliminated. The Office may include any replacement drawings filed in compliance with 37 CFR 1.84 and 1.121(d) in the patent application publication if the replacement drawings are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun (generally four months prior to the projected publication date.) See *Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan*, Final Rule, 68 *Fed. Reg.* 56481, 56514-56525 (Sept. 21, 2004).

Accordingly, the replacement drawings filed with the petition under 37 CFR 1.182 may be included in the patent application publication if the drawings are in compliance with 37 CFR 1.84 and 1.121(d) and if they are entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

If a petition fee or processing fee was submitted with the replacement drawings, then the fee has been refunded.

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

Kaletha King
Pre Grant Publication

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Karen Brown
VERTEX PHARMACEUTICALS
INCORPORATED
130 Waverly Street
Cambridge MA 02139

In re Patent No. 7,507,826	:	
Salituro et al.	:	DECISION DISMISSING REQUEST
Issue Date: 03/24/2009	:	FOR RECONSIDERATION OF PATENT TERM
Application No. 11/093821	:	ADJUSTMENT UNDER 37 CFR 1.705(d)
Filed: 03/30/2005	:	
Attorney Docket No.	:	
VPI/04-105 US	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)," filed May 22, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 243 days to 316 days.

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

On March 24, 2009, the above-identified application matured into US Patent No. 7,507,826 with a patent term adjustment of 243 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays occur on the same day. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 73 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 369 days do not overlap as these periods do not occur on the same day.

Patentees maintain that the period of adjustment due to the three year delay by the Office, pursuant to 37 CFR 1.702(b), of

73 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 369 days do not overlap as these periods do not occur on the same day. The 73 day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on March 30, 2005 and a request for continued examination having been filed on June 12, 2008. Patentees assert that in addition to this 73-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 369 days.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 126 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that no portion of the Three Year Delay period overlaps with the period of examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 442 days, which is the sum of the period of Three Year Delay (73 days) and the period of Examination Delay (369 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 316 days (73 + 369 reduced by 0 overlap - 126 (applicant delay)).

The Office contends that as of the filing of the RCE on June 12, 2008, the application was pending three years and 74 days after its filing date. The Office agrees that the certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 369 days is correct. At issue is whether patentees should accrue 74 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 369 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends, however, that 74 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366

> (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C.

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, October 30, 2005, as terminated by the filing of the RCE on June 12, 2008. Prior to the issuance of the patent, 369 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 74 days for Office delay in issuing the patent overlap with the 369 days of Office delay. During that time, the issuance of the patent was delayed by 369 days, not 369 days + 74 days. Accordingly, 369 days of patent term adjustment (not 369 days and 74 days) was properly entered because the period of delay of 74 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 369 days attributable to grounds specified in § 1.702(a).

In view thereof, no adjustment to the patent term will be made.

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

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

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

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: HONIGMAN MILLER SCHWARTC AND COHN LLP
444 WEST MICHIGAN AVENUE
KALAMAZOO MICHIGAN 49007

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RIDGEFIELD CT 06877-0368

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JUL 13 2009

OFFICE OF PETITIONS

Applicant: Mueller et al.
Appl. No.: 11/093,834
Filing Date: March 29, 2005
Title: SELECTED CGRP - ANTAGONISTS, PROCESS FOR PREPARING THEM AND THEIR USE AS PHARMACEUTICAL COMPOSITIONS
Attorney Docket No.: 01-1668
Pub. No.: US 2005/0234067 A1
Pub. Date: October 20, 2005

This is a decision on applicant's "Communication Regarding Improper Publication of Application", treated as a request for a corrected patent application publication under 37 CFR 1.221(b), received on October 10, 2008, for the above-identified application.

The request is DISMISSED as moot.

Since the application has already issued as U.S. Patent No. 7,479,488 on January 20, 2009, the request is deemed moot. Further note that the request was filed well outside the two month time period, which runs from the date of publication of the application, as set forth in 37 CFR 1.221(b).

Inquiries relating to this matter may be directed to Michael Cygan, Legal Advisor, at (571) 272-7700, or the undersigned at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SMYRSKI LAW GROUP, A PROFESSIONAL CORPORATION
3310 AIRPORT AVENUE, SW
SANTA MONICA, CA 90405

Mail Date: 04/21/2010

Applicant	: Yung-Ho Chuang	: DECISION ON REQUEST FOR
Patent Number	: 7646533	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,850	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: 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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PATTERSON & SHERIDAN, LLP
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SUITE 1500
HOUSTON TX 77056

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of	:	
Klein et al.	:	
Application No. 11/093,870	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. INFN/WB0158	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 7, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 29, 2009, as required by the Notice of Allowance and Fee(s) Due mailed October 29, 2008. Accordingly, the date of abandonment of this application is January 30, 2009. A Notice of Abandonment was mailed February 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
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AUSTIN, TX 78758

Mail Date: 06/18/2010

Applicant	: Ketan A. Padwekar	: DECISION ON REQUEST FOR
Patent Number	: 7636304	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/093,882	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1026** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Please Direct All Correspondence to Customer Number **20995**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s)	:	Lawrence M. BLATT et al.
Patent No.	:	7,491,794
Issued	:	February 17, 2009
Title	:	MACROCYCLIC COMPOUNDS AS INHIBITORS OF VIRAL REPLICATION
Examiner	:	HEARD, Thomas Sweeney
Art Unit	:	1654

PETITION TO CORRECT INVENTORSHIP OF A PATENT

UNDER 37 CFR § 1.324

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

Dear Sir:

In connection with the above-referenced patent, correction of Inventorship to add Scott D. Seiwert as an inventor pursuant to 35 USC §256 and 37 CFR §1.324 is herein requested.

Granted

In accordance with the requirements of 37 CFR §1.324, application of the request is made by all the parties and assignees. In particular: a Statement in accordance with 37 CFR §1.324(b)(1) by the inventor to be added, Scott D. Seiwert, is enclosed herewith; Statements in accordance with 37 CFR §1.324(b)(2) by each current named inventor are enclosed herewith; and a Statement in accordance with 37 CFR §3.73(b) and 37 CFR §1.324(b)(3) by the Assignee, InterMune, Inc., is enclosed herewith.

The Statement in accordance with 37 CFR §1.324(b)(1) by the inventor to be added, Scott D. Seiwert, states that the inventorship error occurred without any deceptive intention on his part. The Statements in accordance with 37 CFR §1.324(b)(2) by the current named inventors establish that they have no disagreement in regard to the requested change. The Statement in accordance with 37 CFR §3.73(b) and 37 CFR §1.324(b)(3) by the Assignee,

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091104A

DATE : November 4, 2009

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7,491,794

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.

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

Comments:

Cecilia Tsang

SPE: Cecilia Tsang **Art Unit** 1654

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Richard L. Goodin	: DECISION ON REQUEST FOR
Patent Number	: 7597709	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,887	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Manish Chandhok, et. al.	:	
Application No. 11/093,889	:	ON PETITION
Filed: March 29, 2005	:	
Attorney Docket No. 42P20376	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 21, 2008, 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 on 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 $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management 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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EcoTech Law Group, P.C.
201 SPEAR STREET
SUITE 1100
SAN FRANCISCO, CA 94105

Mail Date: 06/16/2010

Applicant	: Suraj Puri	: DECISION ON REQUEST FOR
Patent Number	: 7731800	: RECALCULATION of PATENT
Issue Date	: 06/08/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/093,904	: OF WYETH
Filed	: 03/29/2005	:
		:

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/093,910	03/31/2005	Yong-Suk Moon	678-0995 DIV	3211

66547 7590 08/25/2009
THE FARRELL LAW FIRM, LLP
290 Broadhollow Road
Suite 210E
Melville, NY 11747

EXAMINER
TORRES, JOSEPH D

ART UNIT	PAPER NUMBER
2112	

MAIL DATE	DELIVERY MODE
08/25/2009	PAPER

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

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

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THE FARRELL LAW FIRM, P.C.
333 EARLE OVINGTON BOULEVARD
SUITE 701
UNIONDALE, NY 11553

MAILED

AUG 24 2009

TECHNOLOGY

In re Application of:	)	
MOON et al.	)	
Application No. 11/093,910	)	**DECISION ON PETITION TO**
Filed: March 31, 2005	)	**WITHDRAW THE 37 CFR § 1.105**
For: TRANSCEIVER APPARATUS AND	)	**REQUIREMENT FOR**
METHOD FOR EFFICIENT	)	**INFORMATION**
RETRANSMISSION OF HIGH-SPEED	)	
PACKET DATA		

This is a decision on the petition, filed on August 15, 2008, under 37 CFR 1.181 to withdraw the requirement for information under 37 CFR § 1.105.

The petition is **GRANTED**.

Applicant seeks to have the requirement under 37 CFR § 1.105 withdrawn or modified, or to determine that the information submitted to date is sufficient to meet any duty.

REGULATION AND PROCEDURES

37 CFR 1.105(a)(3) states that:

> Requirements for factual information known to applicant may be presented in any appropriate manner, for example:
>
> (i) A requirement for factual information;
> (ii) Interrogatories in the form of specific questions seeking applicant's factual knowledge; or
> (iii) Stipulations as to facts with which the applicant may agree or disagree.

MPEP § 704.11(a) states in-part that:

> ...
> (S) Interrogatories or Stipulations.
>
> (1) Of the common technical features shared among all claims, or admission that certain groups of claims do not share any common technical features,

(2) About the support found in the disclosure for means or steps plus function claims (35 U.S.C. 112, paragraph 6),
(3) Of precisely which portion(s) of the disclosure provide the written description and enablement support for specific claim element(s),
(4) Of the meaning of claim limitations or terms used in the claims, such as what teachings in the prior art would be covered by particular limitations or terms in a claim and which dictionary definitions would define a particular claim term, particularly where those terms are not used per se in the specification ...
(5) Of which portions of each claim correspond to any admitted prior art in the specification, ...

MPEP § 704.11(b) states:

> A requirement for information under 37 CFR § 1.105 is discretionary. A requirement may be made at any time once the necessary for it is recognized and should be made at the earliest opportunity after the necessity is recognized ...

MPEP § 704.11(b)(III) states:

> A requirement for information made after the first action on the merits may be appropriate when the application file justifies asking the applicant if he or she has information that would be relevant to the patentability determination. It is rarely appropriate to require information because of a lack of relevant prior art after the first action on the merits.
> **A requirement for information is not proper when no further action would be taken by the examiner**. The reasonable necessity criteria for a requirement for information implies further action by the examiner. This means that actions in which requirements for information necessary for examination are made should generally be a non-final action because the applicant's reply must be considered and applied as appropriate.[emphasis added]

MPEP § 1214.04 states in pertinent part:

> If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution under 37 CFR 1.198 for the purpose of entering the new rejection...

Relevant Facts

On March 17, 2008, the Examiner made an initial requirement under 37 CFR § 1.105 in a final Office action rejection.

On June 10, 2008, a response to the requirement made on March 17, 2008 was filed.

On June 20, 2008, an advisory action was mailed indicating that Applicant's response to the requirement under 37 CFR § 1.105 was held to be insufficient.

On August 15, 2008, Applicant filed a petition to withdraw the requirement under under 37 CFR § 1.105 (i.e. to determine that the response filed June 10, 2008 was sufficient) and request for withdrawal of Examiner's objection (with respect to claim 7).

On September 9, 2008, an Appeal Brief was filed.

Decision

A review of the file record indicates that the Examiner's requirement, initially presented in the Office action of March 17, 2008 appears to be consistent with the guidance outlined in MPEP § 704.11(a)(S)(3), set forth above.

In the response dated June 10, 2008, Applicant's response provides a clear and concise reply to the requirements of information (pages 2 and 3 thereof) including an identification of support in the specification of the previously objected to claim 7 line 7 recitation of "a controller for selecting an HARQ type" (see identified specification recitations "an HARQ type previously determined by a controller 122" (page 5 lines 5-6) and "a selected HARQ type, provided from a controller 412" (page 16 lines 10-11). Note also Applicant's full response to the requirement for information set forth on pages 2 and 3 including reference to the specification at pages 5 and 16-20.

Further, MPEP § 704.11(b)(III) states: **A requirement for information is not proper when no further action would be taken by the examiner**. It is not clear to this reviewer what further action the examiner would take with respect to any additional information provided since the corresponding 35 USC 112 (1st and 2nd paragraphs) rejections are currently pending in the instant application. This is evidenced by a review of the most recent Office action (final rejection mailed March 17, 2008).

For the above stated reason, the petition is **GRANTED**. The requirement for further information under 37 CFR § 1.105 is improper and has been **WITHDRAWN**. In addition, the objection to claim 7 is deemed to be improper and the Examiner is directed to **WITHDRAW** the objection in the next action. The application is being forwarded to the Technology Support Staff for entry of the Appeal Brief filed September 9, 2008. Thereafter, the application will be forwarded to the Examiner for prompt treatment and appropriate action in accordance with this decision.

Any question concerning this decision should be directed to Brian Johnson whose telephone number is 571-272-3595.

Nestor Ramirez, Director
Technology Center 2100
Computer Architecture, Software, and
Information Security

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OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of
Keven Garcia
Application No. 11/093,923
Filed: March 29, 2005
Attorney Docket No. 2046.043US2

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 11, 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 Andre L. Marals and all attorneys/agents of record has been revoked by the assignee of the patent application on May 2, 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: Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

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Husch Blackwell Sanders, LLP
Husch Blackwell Sanders LLP Welsh & Katz
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/22/2010

Applicant	: Kevin Garcia	: DECISION ON REQUEST FOR
Patent Number	: 7669182	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/093,923	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **929** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO, IL 60604-3787

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DEC 2 4 2008

In re Application of :
Thomas L. **PANTELIS, et al.** :
Application No. 11/093,932 : DECISION ON PETITION
Filed: March 30, 2005 : TO WITHDRAW
Attorney Docket No. **0280-0001** : FROM RECORD

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, 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 Allison Williams on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first named signing inventor Thomas L. Pantelis at the address below until otherwise properly notified by the applicant.

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

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **THOMAS L. PANTELIS**
410 W. GLENCOE
PALATINE, IL 60067

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/093,935	03/30/2005	Anthony Wayne Bond	16378US02	9439

23446 7590 10/09/2008
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
HSU, RYAN

ART UNIT	PAPER NUMBER
3714	

MAIL DATE	DELIVERY MODE
10/09/2008	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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of: BOND, ANTHONY WAYNE Serial No. 11/093,935 Filed: Mar. 3, 2005 Docket: 16378US02 Title: METHOD OF LINKING DEVICES TO GAMING MACHINES	DECISION ON PETITION UNDER 37 CFR § 1.181

This is a decision on the petition, filed Oct. 8, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment. The petition is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required.

The petition under 37 CFR 1.181 is GRANTED.

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on Mar. 14, 2008 which set forth a three-month period for reply. Notice of abandonment was mailed on Sep.30, 2008.

Petitioner argues however that a response was electronically filed on Sep. 10, 2008 with a three month extension of time and provides copies of the response filed with the USPTO. A search of the application file and the USPTO records reveals that in fact, a response was filed with a three-month extension of time. The receipt date for the response and three-month extension of time is Sep. 10, 2008 with the instant petition. Thus the response was timely filed on Sep. 10, 2008.

Accordingly, the Notice of Abandonment mailed Sep. 30, 2008 was mailed in error and is hereby withdrawn. The holding of abandonment is withdrawn. Any inconvenience or delay caused to applicant is regretted. This application is being forwarded to the examiner in Art Unit 3714 for appropriate action.

Robert Olszewski, Director
Technology Center 3700

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ATTN: Jonathan O. Owens
HAVERSTOCK & OWENS LLP
162 North Wolfe Road
Sunnyvale CA 94086

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of :
Johnson et al. : DECISION DISMISSED
Application No. 11/093,947 :
Filed: March 29, 2005 :
Attorney Docket No.: WAGIC-00114 :
Title: Tool Handle For Holding :
Multiple Tools Of Different Sizes :
During Use :

This is a decision on the "Response to the Notice of Omitted Items" filed June 24, 2005, requesting that figures 24A and 24B be considered as part of the original disclosure submitted on March 29, 2005.

Application papers in the above-identified application were filed on March 29, 2005. However, on June 6, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Items in a Nonprovisional Application", notifying applicants, that figures 24A and 24B as described in the specification appeared to have been omitted.

In response, 31 sheets of drawings, including figures 24A and 24B and the present petition were filed on March 31, 2005. The petition contends that the application as filed included 31 sheets of drawings, including figures 24A and 24B. In support, the petition is accompanied by a copy of applicants' postcard receipt which acknowledges receipt in the office of " Drawings 31 sheets" on March 29, 2005.

Applicant's postcard receipt is prima facie evidence that 31 sheets of drawings including figures 24A and 24B described in the specification were received on March 29, 2005, but figures 24A and 24B are not present in the file. Therefore, it is concluded that figures 24A and 24B were received on March 29, 2005, as shown in

counsel's file, and later misplaced in the office.
originally submitted.

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

Since figures 24A and 24B as described in the specification cannot be located in the Office, figures 24A and 24B supplied on June 24, 2005, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of March 29, 2005, using the drawings submitted on March 29, 2005 and the copy of figures 24A and 24B supplied with the petition on June 24, 2005.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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CHICAGO, IL 60604-3787

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MAR 3 1 2008

In re Application of	:	
Michael P. LLOYD	:	
Application No. 11/093,958	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. 0282-0001	:	FROM RECORD
	:	

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 29, 2008.

The request is **APPROVED**.

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

The request was signed by Allison M. Olech on behalf of all attorneys/agents of record associated with Customer No. 33297.

All attorneys/agents of record associated with Customer No. 33297 have been withdrawn.

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

The correspondence of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.

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

There is an outstanding Office action mailed November 9, 2007 that requires a reply by the applicant.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: MICHAEL P. LLOYD
900 E. TIMBERLAKE
CORDOVA, TN 38018

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/093,958	03/30/2005	Michael P. Lloyd	0282-0001

CONFIRMATION NO. 9410

POWER OF ATTORNEY NOTICE

33297
BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO, IL 60604-3787

OC000000029169093

Date Mailed: 03/31/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/29/2008.

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

/dcgoodwyn/

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

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ROCKWELL AUTOMATION, INC./(QB)
ATTENTION: SUSAN M. DONAHUE, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE, WI 53204

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OFFICE OF PETITIONS

In re Application of	:	
Emmad A. Jamaleddin, et. al.	:	
Application No. 11/093,984	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 05AB031	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 23, 2007, to revive the above-identified application.

The above application became abandoned for failure to reply to the final Office action mailed September 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114, with the $790 filing fee and an amendment; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE.

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 will be mailed solely to the address of record.

The application file is being referred to Technology Center Art Unit 2839.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Jack Cook
Quarles & Brady, LLP
411 E. Wisconsin Avenue
Milwaukee, WI 53202-4497

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JONES DAY
P.O. BOX 660623
DALLAS TX 75201

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
EVANYK, Walter R. et al.	:	
Application No. 11/094,000	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. **090238600033**	:	FROM RECORD
	:	

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 17, 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 Paul W. Schrier on behalf of all attorneys of record. All attorneys/agents associated with the Customer Number 00000 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 are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WALTER R. EVANYK**
3200 SHERRYE DRIVE
PLANO, TX 75074-4693

cc: **P2 TECHNOLOGIES, L.P.**
c/o SEALY & COMPANY, INC.
8401 NORTH CENTRAL EXPRESSWAY
SUITE 150, LB 29
DALLAS, TX 75225

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THE GATES CORPORATION
IP LAW DEPT. 10-A3
1551 WEWATTA STREET
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Yahya Hodjat	: DECISION ON REQUEST FOR
Patent Number	: 7598308	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,009	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: 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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Huntley & Associates
1105 North Market Street
P.O. Box 948
Wilmington, DE 19899-0948

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OFFICE OF PETITIONS

In re Application of	:	
Shuhei Noda	:	
Application No. 11/094,015	:	DECISION ON PETITION
Filed: March 29, 2005	:	TO WITHDRAW
Attorney Docket No. Hokushin-8	:	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 March 29, 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 attorneys/agents associated with customer number 54884. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

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

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

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

David Bucci
Petitions Examiner
Office of Petition

Cc: GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON DE 19806

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JOSEPH T. REGARD, LTD PLC
PO DRAWER 429
MADISONVILLE LA 70447-0429

In re Application of	:	
Laura Sutis Cressy	:	
Application No. 11/094,020	:	DECISION ON PETITION
Filed: March 30, 2005	:	PURSUANT TO 37 C.F.R.
Attorney Docket Number:	:	§ 1.137(B)
CRESSY05/01	:	
Title: DEODORIZER/DISINFECTANT	:	
FLUID TREATMENT SYSTEM AND	:	
LITTER LINER FOR USE THEREWITH	:	

This is a decision on petition filed September 8, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

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

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed February 8, 2008, which set a shortened statutory period for reply of three months. An after-final amendment was received on March 19, 2008, and an advisory action was mailed on April 8, 2008. A second after-final amendment was received on April 17, 2008, and an advisory action was mailed on June 16, 2008. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on May 9, 2008. A notice of abandonment was mailed on September 9, 2008, subsequent to the filing of this petition.

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

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

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further indicated that continuation application 12/206,441 was filed on September 8, 2008.

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.[1]

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuing Application No. 12/206,441.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

1 See Rule 1.137(d).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

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In re Application of :
Blumenau, et al. :
Application No. 11/094,061 : DECISION ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 20004/28-US-A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned September 7, 2008 for failure to timely submit a proper reply to the Notice of Allowability (Notice) mailed June 6, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed September 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply to the Notice of Allowability, (2) the required petition fee; and (3) a proper statement of unintentional delay.

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Donald W. Huntley
1105 N. Market Street
P.O. Box 948
Wilmington, DE 19899-0948

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OFFICE OF PETITIONS

In re Application of	:	
Kataoka, et. al.	:	DECISION ON REQUEST
Application No. 11/094,076	:	TO WITHDRAW FROM
Filed: March 29, 2005	:	RECORD
Attorney Docket No. Toyo-4	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed March 27, 2006.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "the responsible attorney for the parent cases in Japan has asked that I turn prosecution over to Mr. Brian Gomez", 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 address until otherwise notified by applicant.

This application file is being referred to Technology Center Art Unit 1752, for review of the response to the Office action filed June 13, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: GOMEZ INTERNATIONAL PATENT OFFICE, LLC
1501 N. RODNEY STREET
SUITE 101
WILMINGTON, DE 19806

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Hanify & King, P.C.
1055 Thomas Jefferson Street, NW
Suite 400
WASHINGTON, DC 20007

Mail Date: 05/04/2010

Applicant	: Mark Hornick	: DECISION ON REQUEST FOR
Patent Number	: 7620635	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **638** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

8/6/08

Patent No. :7356225
Inventor(s) : Nicholas G. Loebel
Issued : 4/8/2008
Title : FIBER OPTIC PROBE TIP
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that col.8 line 27 claim 17 is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

Jenny Lee
Dobrusin & Thennisch PC
29 W. Lawerence Street Suite 210
Pontiac, MI 48342

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 05/07/2010

Applicant	: Satyadev R. Patel	: DECISION ON REQUEST FOR
Patent Number	: 7629190	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of :
Satyadev R. Patel, et. al. :
Application No. 11/094,087 :
Filed: March 29, 2005 :
Attorney Docket No. TI-63010 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2008 and supplemented on March 7, 2008, to revive the above-identified application.

The application became abandoned for failure to file a proper terminal disclaimer to the final Office action mailed on August 1, 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 terminal disclaimer with fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2873 for further processing in accordance with this decision.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Satyadev R. Patel	: DECISION ON REQUEST FOR
Patent Number	: 7586668	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,087	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **555** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DUKE W. YEE
YEE & ASSOCIATES, P.C.
P.O. BOX 802333
DALLAS, TX 75380

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OFFICE OF PETITIONS

In re Application of	:	
Michael Peter Etgen, et al.	:	
Application No. 11/094,092	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. RSW920040220US1	:	

This is a decision on the petition, filed November 10, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely reply to a Pre-Interview Communication mailed August 6, 2008, which set a one- month period for reply. A Notice of Abandonment was mailed on October 3, 2008.

Petitioner asserts that the Office action dated August 6, 2008 was not received.

A review of the application file reveals no irregularities in the mailing of the Office action mailed August 30, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Office action, petitioner must submit evidence to overcome this presumption. The following showing is required:

> 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 an one 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 one month 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.

Petitioner has adequately supported his claim of non-receipt with such evidence.

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 AU 2151 technical support staff for **re-mailing** the Office action of August 6, 2008. The period for reply will run from the mailing date of the Office action.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Andrew L. Silverman	: DECISION ON REQUEST FOR
Patent Number	: 7593950	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,097	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **200** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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JUL 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Takahiro Koishi	:	
Application No. 11/094,107	:	DECISION GRANTING PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8039-1018	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 9, 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 June 29, 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 2113 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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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Donald J. Lindsay	: DECISION ON REQUEST FOR
Patent Number	: 7661069	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,109	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **608** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Borealls Technical Limited
23545 NW Skyline Blvd
North Plains OR 97133-9204

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JUN 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Martsinovsky :
Application No. 11/094,114 :
Filed: March 29, 2005 :
Attorney Docket No. N/A :

ON PETITION

This is in response to the communication, filed January 28, 2008, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

On April 2, 2007, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on July 3, 2007, for failure to submit a timely response to the non-final Office action. On November 28, 2007, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the April 2, 2007 non-final Office action.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the April 2, 2007 non-final Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence,

petitioner must explain how he reminds himself of response due dates and show that the due date for the April 2, 2007 non-final Office action was not entered into that system. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the April 2, 2007 non-final Office action was not found.

In the present petition, petitioner did not submit sufficient statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the April 2, 2007 non-final Office action. Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the April 2, 2007 non-final Office action accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$770.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

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

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

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: a copy of the April 2, 2007 non-final Office action

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/094,114	03/29/2005	Artemi Markovich Martsinovsky		9345

7590 04/02/2007
Borealls Technical Limited
23545 NW Skyline Blvd
North Plains, OR 97133-9204

EXAMINER
TAMAI, KARL I

ART UNIT	PAPER NUMBER
2834	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/02/2007	PAPER

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

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	11/094,114	MARTSINOVSKY, ARTEMI MARKOVICH
	Examiner	Art Unit
	Tamai I.E. Karl	2834

-- 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 *20 April 2005*.

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) *1-19* 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) *1-19* 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 *4/15/05, 4/20/05*.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The IDS filed 4/15/2005 was filed with the correct serial number, but named an inventor who is not named in the present application. The references cited by the Applicant are not pertinent to Thermo Tunnels. The Examiner believes the IDS was filed in error and belongs to another application.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

3. 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.

4. Claim 1, 4, 6, 7, 11-13, 17, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kucherov et al. (Kucherov)(US 20040050415). Kucherov teaches an thermotunnel converter having a gap between the electrodes less than the surface roughness of the electrodes with spacers between the electrodes having a proportion of surface area covered by the electrodes is less than 1 (see figure 2b showing the

thermotunnel with flexible electrode after production). Kucherov teaches the gap space of 3-5 nm with circular, dielectric (TiO_2) spacers 2. Kucherov teaches the collector has a silicon substrate. The number of electrodes being 2 (fewer than 400, 100, 30).

Claim Rejections - 35 USC § 103

5. 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.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kucherov et al. (Kucherov)(US 20040050415). Kucherov teaches every aspect of the invention except the proportion of the surface area covered by the spacer > (P+F)/TK or 1/4. Kucherov teaches that the number and pattern of the spacers (which would determine the surface area covered) is variable to prevent warping (paragraphs 0070-0072). It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the thermo tunnel converter with the proportion of the surface area covered by the spacer > (P+F)/TK to prevent warping.

7. Claims 5 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kucherov et al. (Kucherov)(US 20040050415), in further view of Kucherov et al. ('704)(US 6489704). Kucherov teaches every aspect of the invention except the spacers made from SiO_2, ZrO_2, or Al_2O_3; or the spacer being a nanotube, nanowire, or

buckeyball. '704 teaches that the spacers are dielectric SiO_2 or Al_2O_3 and nanowires or nanotube spacers. It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the thermo tunnel converter with spacers made from SiO_2, ZrO_2, or Al_2O_3 or nanotubes and nanowires to provide easy manufacure using current deposition techniques or to provide nanoscale spacing for thermal generators, as taught by '704, and because it has been held that selection of the material based on intended use is within the ordinary skill in the art (See *In re Leshin*, 125 USPQ 416).

8. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kucherov et al. (Kucherov)(US 20040050415), in further view of Tavkhelidze et al. (Tavkhelidze)(WO 99/13562). Kucherov teaches every aspect of the invention except the gaps being evacuated or filled with an inert gas. Tavkhelidze teaches the thermotunnel gap can be evacuated or filled with an inert gas (page 13, line 10, page 14, lines 1-10). It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the thermo tunnel converter with the gap evacuate or filled with an inert gas allow the device to operate as a thermal generator, and because it is within the ordinary skill in the art to choose between known equivalents, as taught by Tavkhelidze.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kucherov et al. (Kucherov)(US 20040050415), in further view of Hansell (US 2510397).

Kucherov teaches every aspect of the invention except the plurality of electrodes being $>t*k*(ns/d*D_s)$. Hansell teaches the electrodes can be stacked to provide a high current low voltage output. It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the thermo tunnel converter with the plurality of electrodes being $>t*k*(ns/d*D_s)$ to provide a high current, low voltage generator, and because it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. (see *In re Aller*, 105 USPQ 233).

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kucherov et al. (Kucherov)(US 20040050415) and Kucherov et al. ('704)(US 6489704), in further view of Beggs (US 3176164). Kucherov and Kucherov teach every aspect of the invention except the thin metal having indentations for maintaining the nanowire, nanotubes, or buckeyballs. Beggs teaches the spacers 28 are recessed into the electrodes to help accurately maintain the spacing between the electrodes. It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the thermo tunnel converter with the electrodes having indentation for nanowires, nanotubes, or buckeyballs to help accurately maintain the spacing of the electrodes, as taught by Beggs.

11. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kucherov et al. (Kucherov)(US 20040050415) and Brunson (US 4188571). Kucherov teaches every aspect of the invention except the electrodes having a thin layer of silver

and a thick layer of copper. Brunson teaches electrode with a thin layer of silver and a thick layer of copper to provide a low work function electrode and an efficient converter. It would have been obvious to a person of ordinary skill in the art at the time of the invention to construct the converter of Kucherov with the silver and copper electrodes to provide an efficient converter as taught by Brunson.

Double Patenting

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claim 16 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6876123. Although the conflicting claims are not identical, they are not patentably distinct from each other because the gaps being less than the surface roughness is an obvious design choice when operating in the nanometer scale range of thermo tunnel converters.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl I.E. Tamai whose telephone number is (571) 272 - 2036.

The examiner can be normally contacted on Monday through Friday from 8:00 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg, can be reached at (571) 272 - 2044. The facsimile number for the Group 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).

Karl I Tamai
PRIMARY PATENT EXAMINER
March 26, 2007

KARL TAMAI
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 11/094,114	Applicant(s)/Patent Under Reexamination MARTSINOVSKY, ARTEMI MAR	
	Examiner Tamai I.E. Karl	Art Unit 2834	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2005/0184603	08-2005	Martsinovsky, Artemi Markovich	310/049.00R
*	B	US-2004/0050415	03-2004	Kucherov et al.	136/252
*	C	US-6,876,123	04-2005	Martinovsky et al.	310/306
*	D	US-3,176,164	03-1965	BEGGS JAMES E	310/306
*	E	US-2,510,397	06-1950	HANSELL CLARENCE W	374/174
	F	US-			
	G	US-			
	H	US-			
	I	US-			
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FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
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	S					
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NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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	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.

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PTO/SB/08A (08-03)
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Substitute for form 1449/PTO

INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1 of 2

Complete if Known	
Application Number	11/094,114
Filing Date	March 29, 2005
First Named Inventor	Artemi MARTSINOVSKY
Art Unit	2834
Examiner Name	Karl Tamai
Attorney Docket Number	

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Class Subclass ~~Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear~~
		US- 2,510,397 A	06-06-1950	Hansell	374/174
		US- 3,169,200 A	02-09-1965	Huffman	310/306
		US- 3,173,032 A	03-09-1965	Maynard	310/306
		US- 3,821,462 A	06-28-1974	Kaufman et al.	175/15C
		US- 4,188,571 A	02-12-1980	Brunson	322/2R
		US- 4,373,142 A	02-08-1983	Morris	310/306
		US- 4,667,126 A	05-19-1987	Fitzpatrick	310/306
		US- 5,994,638 A	11-30-1999	Edelson	136/203
		US- 6,064,137 A	05-16-2000	Cox	310/306
		US- 6,489,704 B1	12-03-2002	Kucherov et al.	310/306
		US- 2003/0042819 A1	03-06-2003	Martinovsky et al.	310/306
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FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Foreign Patent Document Country Code[3] Number[4] Kind Code[5] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Class Subclass ~~Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear~~	T[6]
		WO 99/10974 A1	03-04-1999	Borealis Techni	H02N 10/00	
		WO 99/13562 A1	03-18-2003	Borealis Techni	H02N 2/00	
		WO 03/021758 A2	03-13-2003	Borealis Techni	H02M	

Examiner Signature		Date Considered	3/26/07

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. [1] Applicant's unique citation designation number (optional). [2] See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. [3] Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). [4] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [5] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [6] Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. 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 2 hours 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, 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.

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(Use as many sheets as necessary)

Sheet	2	of	2

Complete If Known	
Application Number	11/094,114
Filing Date	March 29, 2005
First Named Inventor	Artemi MARTSINOVSKY
Art Unit	2834
Examiner Name	Karl Tamai
Attorney Docket Number	

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No.[1]	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T[2]
KT		HUFFMAN, F.N. & HAQ, Z. "Preliminary Investigations of a Thermotunnel Converter", (1988) 23rd Intersociety Energy Conversion Engineering Conference vol. 1, pp. 573-579.	

Examiner Signature		Date Considered	3/26/07

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(Use as many sheets as necessary)

Sheet 1 of 1

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Application Number	11/094,114
Filing Date	January 4, 2005
First Named Inventor	Jonathan S. EDELSON
Art Unit	2834
Examiner Name	Karl TAMAI
Attorney Docket Number	

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.[1]	Document Number Number-Kind Code[2] (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Class/Subclass Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		US- 4,607,204 A	08-19-1986	Setoya	318/696
		US- 4,611,157 A	09-09-1986	Miller et al.	318/696
		US- 4,713,594 A	12-15-1987	Bose et al.	318/685
		US- 4,755,732 A	07-05-1988	Ando	318/696
		US- 5,076,810 A	12-24-1991	Harris	318/701
		US- 6,064,172 A	05-16-2000	Kuznetsov	318/716
		US- 6,101,109 A	08-08-2000	Duba et al.	363/71
		US- 6,153,953 A	11-28-2000	Isozaki et al.	310/49R
		US- 6,175,272 B1	01-16-2001	Takita	330/10
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Examiner Signature		Date Considered	3/26/07

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ATTORNEYS FOR CLIENT NO. 016689
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: Daisuke Kasamatsu	: DECISION ON REQUEST FOR
Patent Number	: 7656560	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,138	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1282** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Juhana Kantola	: DECISION ON REQUEST FOR
Patent Number	: 7661920	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,149	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1017** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MARK A KOCH
866 MAIN STREET EAST
HAMILTON ON L8M1L-9 CA CANADA

In re Application of
Gary Folkema
Application No. 11/094,166
Filed: March 31, 2005
Attorney Docket No.560P3

ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed August 28, 2007.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

The above-identified application became abandoned for failure to reply to the non-final Office action mailed December 8, 2006, which set a shortened statutory period for reply of three months (3) from its mailing date. No response was received within the allowable period, and the application became abandoned on March 9, 2007. A Notice of Abandonment was mailed on July 13, 2007.

Petitioner argues that a reply the non-final Office action was transmitted via facsimile on February 26, 2007, and received by the Office. As evidence of the same, petitioner provides a copy of the certificate of transmission under 37 CFR 1.8 noting that a response was sent on February 26, 2007, and a copy of the transmission sheet indicating that 14 pages were transmitted to a USPTO facsimile.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 1700, GAU 1772, for further processing including entry of the copy of the amendment filed with the petition which is responsive to the non-final Office action.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WASHINGTON, DC 20001-4413

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OFFICE OF PETITIONS

In re Application of Watanabe et al. :
Application No. 11/094,208 :
Filing Date: March 31, 2005 :
Attorney Docket No. 05905.0218 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed October 23, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed February 23, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned as of midnight on Monday, March 26, 2007. A Notice of Abandonment was mailed September 26, 2007.

Petitioner has established the Office mailed the February 23, 2007 Office action. Petitioner has established the Office action was never received at the proper address of record. Therefore, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 3711 will be informed of the instant decision. Thereafter, the examiner will mail a new copy of the February 23, 2007 Office action.. The time period for responding to the new Office action will be set to run from the mailing date of the new Office action.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Wantanabe, et al.	:	DECISION ON APPLICATION
Application No. 11/094,208	:	FOR
Filed: March 31, 2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. 05905.0218	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT–PRE-GRANT", filed September 9, 2009, which is properly treated pursuant to 37 CFR 1.705(b). Applicants requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to nine hundred and ten (910) days.

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

The Office has updated the PALM and PAIR screens to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **nine hundred ten (910) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 15, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is zero (0) days.

In response, applicants timely[1] filed the instant request for reconsideration of the patent term adjustment along with payment

[1] The Office records indicate that the Issue Fee payment was received on September 14, 2009.

of the fee set forth in 37 C.F.R. § 1.18(e). Applicants request that the patent term adjustment be corrected to 910 days.

Applicants assert that any reduction to the patent term adjustment for applicant delay under 37 CFR 1.704(b) should be calculated from the November 26, 2008, mailing of the restriction requirement, not the February 23, 2007, mailing of the restriction requirement because the restriction requirement mailed February 23, 2007, was mailed to the wrong correspondence address. Applicants conclude, therefore, the reduction to the patent term adjustment of 576 days for failure to respond to the restriction requirement mailed February 23, 2007, is not warranted and, in fact, there should be no reduction to the patent term adjustment under 37 CFR 1.704(b) because applicants filed a timely response to the November 26, 2008, restriction requirement. Applicants further assert that because the restriction requirement mailed February 23, 2007, was not mailed to the correct address, the period of patent term adjustment pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) should be calculated from the November 26, 2008, mailing of the restriction requirement. In so doing, applicants contend that the patent term adjustment for Office delay should be increased by 642 days pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) for the Office's failure to mail a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was under 35 U.S.C. 111(a). In conclusion, applicants assert that the patent term adjustment at the time of the mailing of the Notice of Allowance should be 910 days (910 (268 + 642) days for Office delay - 0 days for applicant delay).

Applicants' arguments have been considered and are well taken. A review of the application history reveals that the Office mailed an Office action under 35 U.S.C 1.132 on February 23, 2007; however, the Office action was not mailed to the correspondence address of record. The record supports a conclusion that this was due to an error on the part of the Office. It is noted that applicants filed a petition to withdraw the holding of abandonment within two months of mailing of a Notice of Abandonment on September 26, 2007. The petition to withdraw the holding of abandonment was granted by a decision mailed April 17, 2008. Accordingly, a new Office action under 35 U.S.C. 1.132, setting a new period for reply was mailed to the correspondence address of record on November 26, 2008. Under the circumstances, it is appropriate to use the date of

mailing of the Office action mailed November 26, 2008, for purposes of calculating the reduction to the patent term adjustment, if any, pursuant to 37 CFR 1.704(b) and any adjustment to the patent term pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1). On December 19, 2008, applicants filed a response to the restriction requirement mailed November 26, 2008. No reduction to the patent term of adjustment under 37 CFR 1.704(b) is warranted because applicants filed a response to the restriction requirement within in three months of the November 26, 2008, mailing date of the restriction requirement. Accordingly, the reduction to the patent term adjustment of 576 is being removed.

It is further noted that adjustment to the patent term pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1)[2] was incorrectly calculated using the February 23, 2007, mailing date of the restriction requirement. Rather, any Office delay pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) should have been calculated using the date of November 26, 2008—the date the restriction requirement was re-mailed to the correct correspondence address of record. Accordingly, the period of adjustment under 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) is the number of days in the period beginning on the day after the

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[2] 37 CFR 1.702 provides that:

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application[.]

37 CFR 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), June 1, 2006, and ending on the date of mailing of the action under 35 U.S.C. 132, November 26, 2008. Thus, the patent term adjustment for Office delay pursuant 37 CFR 1.702(a)(1) and 37 CFR 1.703(a)(1) is 910 days. The period of adjustment of 268 days is being removed and the period of adjustment of 910 days is being entered.

In view thereof, the adjustment to the patent term at the time of the mailing of the Notice of Allowance is 910 days (910 days of Office delay - 0 days of applicant delay).

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

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent. 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 regarding 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 updated PAIR screen

Day : Monday
Date: 12/14/2009

PALM INTRANET

Time: 09:28:22

PTA Calculations for Application: 11/094208			
Application Filing Date:	03/31/2005	PTO Delay (PTO):	268
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	576
Post-Issue Petitions:	0	Total PTA (days):	910
PTO Delay Adjustment:	1218		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	12/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	910		
58	12/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		268	
57	12/02/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	576		
49	06/15/2009	MAIL NOTICE OF ALLOWANCE			
48	06/11/2009	ISSUE REVISION COMPLETED			
47	06/09/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
46	06/08/2009	DOCUMENT VERIFICATION			
45	06/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	06/08/2009	EXAMINER'S AMENDMENT COMMUNICATION			
43	06/08/2009	NOTICE OF ALLOWABILITY			
39	05/29/2009	DATE FORWARDED TO EXAMINER			
38	04/09/2009	RESPONSE AFTER EX PARTE QUAYLE ACTION			
37	02/20/2009	MAIL EX PARTE QUAYLE ACTION (PTOL - 326)			
36	02/17/2009	EX PARTE QUAYLE ACTION			
35	05/24/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	12/29/2008	DATE FORWARDED TO EXAMINER			
33	12/19/2008	RESPONSE TO ELECTION / RESTRICTION FILED		576	17
32	11/26/2008	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
31	11/24/2008	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
25	04/17/2008	MAIL NOTICE OF RESCINDED ABANDONMENT			
24	04/17/2008	NOTICE OF RESCINDED ABANDONMENT IN TCS			
		MAIL-PETITION TO REVIVE APPLICATION -			

22	04/17/2008	GRANTED			
21	04/17/2008	PETITION TO REVIVE APPLICATION - GRANTED			
20	10/23/2007	PETITION ENTERED			
19	09/26/2007	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
18	09/21/2007	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
17	02/23/2007	MAIL RESTRICTION REQUIREMENT	268		-1
16	02/20/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
15	06/09/2005	CORRESPONDENCE ADDRESS CHANGE			
14.7	05/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/07/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/07/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	05/24/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9	05/24/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
8	04/25/2005	APPLICATION RETURN FROM OIPE			
7	04/26/2005	APPLICATION IS NOW COMPLETE			
6	04/25/2005	APPLICATION RETURN TO OIPE			
5	04/25/2005	APPLICATION DISPATCHED FROM OIPE			
4	04/26/2005	APPLICATION IS NOW COMPLETE			
3	04/15/2005	CLEARED BY OIPE CSR			
2	04/11/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/31/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/22/2010

Applicant	: Hideki Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7648142	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,208	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **2145** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Mail Date: 04/22/2010

Applicant	: Hideki Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7648142	: RECALCULATION of PATENT
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Appliction No	: 11/094,208	: OF WYETH AND NOTICE OF INTENT TO
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		:

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
Yun Chur CHUNG et al.	:	
Application No. 11/094,215	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 081789-0015	:	

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

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-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.

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

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

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

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

As to Period (1):

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

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay **(here two (2) years and one (1) month)** 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 **May 23, 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). As Bacon & Thomas was the party having the right to reply at the date of abandonment, Bacon & Thomas should explain why this application became abandoned while it was under their control and what efforts were made to further reply and with whom this matter was discussed. When did Bacon & Thomas and Tseng-Lu Chien become aware of the abandonment of this application? Additionally, Bacon & Thomas and Tseng-Lu Chien must explain the circumstances surrounding the discovery of the abandonment of this application, **here two (2) years and one (1) month** after the mailing of the Notice of Abandonment.

Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Bacon & Thomas and Tseng-Lu Chien and whoever else was involved with this application at the time of abandonment. Statements are required from the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

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

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted i1982 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, two (2) years and one (1) month) 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.

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).

The applicant should address the statements that, "applicant overlooked or did not receive the September 05, 2007 letter" and "do work to save this case at once".

Did the applicant overlook or did applicant not receive? Does the phrase "do work to save this case at once" authorize all fees?

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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In re Application of	:	
Tseng-Lu CHIEN	:	
Application No. 11/094,215	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. CHIE3074/BEU	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 14, 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 non-final Office action mailed, February 22, 2007 which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 23, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment (2) the petition fee of $810.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of February 22, 2007 is accepted as having been unintentionally delayed.

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

The application is being referred to the Technology Center AU 2885 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
DOI, YOSHIHARU :
Application No. 11/094,220 : DECISION ON PETITION
Filed: March 31, 2005 : TO MAKE SPECIAL
For: **RECEIVING METHOD AND RECEIVER** :

This is a decision on the petition filed June 1, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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JUL 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
DOI, YOSHIHARU :
Application No. 11/094,221 : DECISION ON PETITION
Filed: March 31, 2005 : TO MAKE SPECIAL
For: **RECEIVING METHOD AND RECEIVER** :

This is a decision on the petition filed June 1, 2005 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of	:	
Rothman et al.	:	
Application No. 11/094,234	:	ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 42P20883	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 2, 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 Oath/Declaration with requisite surcharge; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

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VOLENTINE FRANCOS, & WHITT
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

In re Application of :
Tsutomu Higuchi :
Application No. 11/094,236 : ON PETITION
Filed: March 31, 2005 :
Attorney Docket No. MA.021D2 :

This is a decision on the petition, filed August 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 14, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2827 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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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P.O. BOX 1450
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Paper No. _____

Date : August 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) :Tsutomu Higuchi
Application No. : 11/094,236
Filed :March 31, 2005

The above-identified application has been assigned Patent No. 7,099,205 and an issue date of August 29, 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 August 29, 2006:

"All reference to Patent No. 7,099,205 to Tsutomu Higuchi of Japan for MEMORY MACRO WITH MODULAR PERIPHERAL CIRCUIT ELEMENTS appearing in the Official Gazette of August 29, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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OFFICE OF PETITIONS

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

In re Patent No. 7,194,225 :
Yamaguchi :
Issue Date: March 20, 2007 :
Application No. 11/094,242 : LETTER REGARDING
Filed: March 31, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 00684.106250. :
Title: PROCESS CARTRIDGE AND IMAGE :
FORMING APPARATUS :

This is a decision on the "REQUEST FOR RECONSIDERATION AND RECALCULATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)," filed May 16, 2007. Patentees request that the patent term adjustment indicated on the Notice of Allowance and Issue Fee Due be corrected from thirty-four (34) days to eighty-two (82) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

On March 20, 2007, the above-identified application matured into U.S. Patent No. 7,194,225, with a revised Patent Term Adjustment of 34 days.

Pursuant to 37 C.F.R. §1.702(a)(1), the Office is required to mail at least one of a notification under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a). The application was filed on March 31, 2005, and the Office mailed Notice of Allowance and Issue Fee Due on October 10, 2006, which is fourteen months and 132 days after the filing of the application. See 37 C.F.R. § 1.703(a)(1).

Thus the proper period of adjustment is 132 days.

Pursuant to 37 C.F.R. § 1.704(c)(10), the submission of an amendment under Rule § 1.312 after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of four months or the number of days (50), beginning on the date the amendment under § 1.312 or other paper was filed (December 13, 2006) and ending on the mailing date of the Office action or notice in response to the amendment under Rule § 1.312 (January 31, 2007). This constitutes a delay of 50 days.

Thus, the proper period of reduction is 50 days, whereas the Office improperly calculated a delay of 98 days.

In view thereof, the patent should have issued with a revised patent term adjustment of 82 days.

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

The application 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 82 days.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,194,225 B2

DATED : March 20, 2007

INVENTOR(S) : Yamaguchi

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 34 days

Delete the phrase "by 34" and insert – by 82 days--

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Peiqing Wang	: DECISION ON REQUEST FOR
Patent Number	: 7636388	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,273	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **679** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 05/18/2010

Applicant : Peiqing Wang
Patent Number : 7636388
Issue Date : 12/22/2009
Application No : 11/094,273
Filed : 03/31/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **715** 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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Shiloh et al.
C/O INTELLEVATE , LLC
P.O BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Ayelet Alon	: DECISION ON REQUEST FOR
Patent Number	: 7577113	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Patton Boggs LLP
8484 Westpark Drive
Suite 900
Mclean, VA 22102

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Koteswara Chintalacharuvu et al.	:	
Application No. 11/094,302	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 020492.0103PTUS	:	FROM RECORD
	:	

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 11, 2007.

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

A review of the file record indicates that the power of attorney to Patton Boggs LLP has been revoked by the assignee of the patent application on July 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Foley and Lardner LLP**
Suite 500
3000 K Street NW
Washington, DC 20007

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1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Peiqing Wang	: DECISION ON REQUEST FOR
Patent Number	: 7627025	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,314	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **771** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Peiqing Wang	: DECISION ON REQUEST FOR
Patent Number	: 7627026	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,318	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **775** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD H17
CINCINNATI OH 45215

MAILED

JUN 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Nagaraj et al	:	
Application No. 11/094,351	:	DECISION GRANTING PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 136490	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 10, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1794 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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JUN 0 9 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

In re Application of :
Yoshiharu DOI :
Application No. 11/094,370 :
Filed: March 31, 2005 :
For: **RECEIVING METHOD AND RECEIVER** :

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed June 1, 2005 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

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

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

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

Doris To
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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AUG 24 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

John H. Lynn
Suite C 103
2915 Redhill Ave.
Costa Mesa CA 92626

In re Application of	:	
Bruce HOOD	:	
Application No. 11/094,370	:	DECISION ON PETITION
Filed: April 12, 2005	:	TO MAKE SPECIAL
For: **HEADSET EYEWEAR**	:	

This is a decision on the petition filed July 25, 2005 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/31/08

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11094371 Patent No.: 7366440 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

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: All changes approved

/David M. Gray/ Art Unit 2852

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

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JUN 2 3 2005

OFFICE OF PETITIONS

In re Application of Darryl Dean Baldwin Application No. 11/094,379 Filed: 31 March, 2005 Atty Docket No. 08350.4544-00000	: : : : : :	DECISION ON PETITION

This is a decision on the petition filed on 8 June, 2005, requesting that the above-identified application, including two (2) sheets if drawings, be accorded a filing date of 31 March, 2005.

The petition is **GRANTED**.

On 31 March, 2005, the application was filed.

On 19 May, 2005, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on 8 June, 2005, the present petition and a copy of two (2) sheets of drawings, were filed. Petitioner argues that two (2) drawing sheets was filed with the other application papers on 31 March, 2005, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" dated 31 March, 2005, and identifies the application by the inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 2 sheet of drawings (Figures 1 and 2). Petitioner requests that the application, including

the two (2) sheets of drawings, be accorded a filing date of 31 March, 2005.

A review of the record reveals that no sheets of drawings received on 31 March, 2005, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 31 March, 2005, included two (2) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 31 March, 2005.

In view of the above, the petition is granted. As the petition was necessitated by an error on the part of the Office, the petition fee of $400.00 will be credited to counsel's deposit account, No. 06-0916.

The application will be processed with the copy of the two (2) sheets of drawings supplied on 8 June, 2005, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 31 March, 2005, using the application papers filed on that date, and the copy of two (2) sheets of drawings supplied with the present petition, and for an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries 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
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CATERPILLAR INC.
INTELLECTUAL PROPERTY DEPT.
AB 6490
100 N.E.ADAMS STREET
PEORIA IL 61629-6490

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APR 16 2007

OFFICE OF PETITIONS

In re Application of :
Darryl Dean Baldwin :
Application No. 11/094,379 :
Filed: March 31, 2005 :
Attorney Docket No. 08350.4544-00000 :

ON PETITION

This is a decision on the petition, filed April 13, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3747 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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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.
11/094,383	03/31/2005	Trent Steven Kucher	08350.2666-00	3381

58982 7590 01/24/2007
CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON, DC 20001-4413

EXAMINER
TSAI, CAROL S W

ART UNIT	PAPER NUMBER
2857	

MAIL DATE	DELIVERY MODE
01/24/2007	PAPER

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 20070119

Applicant : Kucher, Trent S.
Appl No.: 11/094,383
Filed: March 31, 2005

DECISION GRANTING PETITION UNDER *37 CFR 1.48*

This decision is in response to the petition filed March 15, 2006 in the above-identified application. Petitioner requests that inventorship be corrected in accordance with 37 C.F.R. 1.48.

Specifically, the petition requests that Kurtis C. Kelley be added as a co-inventor.

The petition complies with 37 C.F.R. 1.48(a) in that (1) the desired inventorship change is set forth; (2) a statement is included from Mr. Kelley that the error occurred without deceptive intention on his part; (3) a declaration from each actual inventor was provided; (4) the fee set forth in 37 CFR 1.17(i) was paid; and (5) written consent of the assignee was submitted.

The papers filed on March 15, 2006 thus fulfill the requirements set forth in 37 C.F.R. 1.48(a), and the petition is GRANTED.

Marc Hoff
Supervisory Patent Examiner, Art Unit 2857
Technology Center 2800

CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON DC 20001-4413

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: 04/23/2010

Applicant	: Dirk Westhoff	: DECISION ON REQUEST FOR
Patent Number	: 7609838	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,394	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: David S. Benco	: DECISION ON REQUEST FOR
Patent Number	: 7577241	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,402	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1115** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Tadashi Iguchi et al.	:	
Application No. 11/094,467	:	DECISION GRANTING PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 268765US-2 DIV	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 1, 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 February 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]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Karen Cressy for
Frances Hicks
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Jones & Smith, LLP
2777 Allen Parkway, Suite 800
Houston, TX 77019-2141

MAILED

NOV 09 2009

OFFICE OF PETITIONS

In re Patent No. 7,128,306 :
Issue Date: October 31, 2006 :
Application No. 11/094,471 :
Filed: March 31, 2005 :
Attorney Docket No. 041443-01202 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 17, 2009. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

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

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date :07/05/07

Patent No. : 7154773 B2
Ser. No. : 11/094,473
Inventor(s) : BRAUN, DANIEL
Issued : 12/26/06
Title : **MRAM CELL WITH DOMAIN WALL SWITCHING AND FIELD SELECT**
Docket No. : 0928.0209C

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Lamonte M. Newsome
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 #112 or (703) 308-8309

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

LMN

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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 Miller and Kay	:	
Application No. 11/094,510	:	Decision According Status
Filed: March 31, 2005	:	Under 37 CFR 1.47(a) and
Attorney Docket No. 044117-0141	:	Dismissal of Petition Under
For: Light Assembly of Pre-Defined Shape	:	37 CFR 1.48(a)

This is a decision on the petitions under 37 CFR 1.47(a) and 37 CFR 1.48(a) filed October 25, 2005.

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

The petition under 37 CFR 1.48(a) is **dismissed as moot**.

The petition under 37 CFR 1.47

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 petition under 37 CFR 1.48

The petition under 37 CFR 1.48 is unnecessary and is dismissed as moot. 37 CFR 1.48(f) provides,

> If the correct inventor or inventors are not named on filing a nonprovisional application under § 1.53(b) without an executed oath or declaration under § 1.63 by any of the inventors, the first submission of an executed oath or declaration under § 1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship.

The first oath/declaration submitted executed by one or more of the inventors lists Miller and Kay as the inventors for the application. Therefore, per 37 CFR 1.48(f), the inventors of record for the application are Miller and Kay.

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of
Miller, Kay
Application No. 11/094,510
Filed: March 31, 2005
Attorney Docket No. 074741-0028

: DECISION
: DISMISSING PETITION

This application has been referred to this office in light of the communication filed June 4, 2007, by non-signing inventor Kay, styled as a petition under 37 CFR 1.182 to withdraw this application from issue.

The petition is dismissed.

The petition seeks withdrawal of this application from issue on the ground that the terminal disclaimer filed January 9, 2007, is defective in that as this application and parent 10/814,584 are not commonly owned, 37 CFR 1.321 has not been satisfied.

The above-identified application was accorded Rule 47 status on February 9, 2006, in the absence of the making of this application by joint inventor Kay. In such situations, any subsequent communications filed by the non- signing inventor Kay are merely placed in the file. See MPEP 409.03(j). Furthermore, a non- signing inventor is not entitled to a hearing (Cogar v. Schuyler, 464 F.2d 747, 173 USPQ 389 (D.C. Cir. 1972)), and is not entitled to prosecute the application if status under 37 CFR 1.47 has been accorded. Accordingly, while the "petition" to withdraw this application filed by non- signing inventor Kay has been placed in this file, it will not be further treated on its merits.

Nevertheless, the terminal disclaimer filed January 9, 2007, facially contains an error where it asserts that Quantum Leap Research Inc., (Quantum) is the owner of 100% interest in this application by virtue, *inter alia*, of the assignment (of Kay only) recorded against parent U.S. application No. 10/814,584('584). Since the instant application is asserted to be a continuation-in-part (CIP) of the '584 application that assignment does not carry, and thus has no force and effect with respect, to this CIP application. See MPEP 306. In the absence of an assignment of Kay's interest in this application to Quantum, Kay retains his 50 % *pro rata* share in this application. See 37 CFR 3.73(a). It follows that Quantum is not the assignee of the entire (100%) interest.

This application is being referenced to the Technology Center for further action consistent with this communication.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

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600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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DEC 27 2007

OFFICE OF PETITIONS

In re Application of
Rodney H. Miller, et al.
Application No. 11/094,510
Filed: March 31, 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 August 8, 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 Brian K. Seidleck on behalf of all attorneys of record who are associated with customer No. 20277.

All attorneys/agents associated with the Customer Number 20277 have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed September 8 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: RODNEY H. MILLER
QUANTUM LEAP RESEARCH INC
237 HYMUS BLVD.
MONTREAL (POINTE CLAIRE) QUEBEC H9R 5C7
CANADA

cc: MR. GUY LAVERGNE
ASSOCIATE GENERAL COUNSEL
QUANTUM LEAP RESEARCH INC
237 HYMUS BLVD.
MONTREAL (POINTE CLAIRE) QUEBEC H9R 5C7
CANADA

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/094,510	03/31/2005	Rodney H. Miller	074741-0028

CONFIRMATION NO. 1398

POWER OF ATTORNEY NOTICE

20277
MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

OC000000027323000

Date Mailed: 12/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2007.

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

/amwise/

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

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POST OFFICE BOX 41200, SOUTH STATION
ARLINGTON, VA 22204

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JUN 04 2010

OFFICE OF PETITIONS

In re Application of :
Mark T. Salman :
Application No. 11/094,529 :
Filed: March 31, 2005 :
Attorney Docket No. 15344.08 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 16, 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 August 17, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). One 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 December 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 the submission required by 37 CFR 1.114; (2) the petition fee of $810 and (3) a proper statement of unintentional delay.

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

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

This application is being referred to Technology Center AU 3635 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed December 16, 2009 submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Litman Law Offices, LTD.
P.O. Box 15035
Arlington, VA 22215

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS) CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON DC 20375-5320

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MAY 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Guillermo R. Villalobos et al	:	
Application No. 11/094,543	:	DECISION ON PETITION
Filed: March 24, 2005	:	
Attorney Docket No. NC 97,234	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed August 11, 2008, 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 1791 for appropriate action by the Examiner in the normal course of business on the reply received April 8, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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NAVAL RESEARCH LABORATORY
ASSOCIATE COUNSEL (PATENTS)
CODE 1008.2
4555 OVERLOOK AVENUE, S.W.
WASHINGTON, DC 20375-5320

Mail Date: 04/21/2010

Applicant	: Guillermo R. Villalobos	: DECISION ON REQUEST FOR
Patent Number	: 7611661	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,543	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1190** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ASSOCIATE COUNSEL (PATENTS)
CODE 1008 2
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WASHINGTON, DC 20375-5320

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Giuillermo E. VILLALOBOOS, et al	:	
Application No. 11/094,545	:	DECISION ON PETITION
Filed: March 24, 2005	:	TO WITHDRAW
Attorney Docket No. 96775-US1	:	FROM RECORD

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 4, 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).

Ray Lynn P. Guest has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/30/2010

Applicant	: Mitsuru Nakata	: DECISION ON REQUEST FOR
Patent Number	: 7611577	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,570	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TERUMO MEDICAL CORPORATION
6200 JACKSON ROAD
ANN ARBOR, MI 48103

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FEB 13 2008

In re Application of	:	
Christopher Bosel et al.	:	
Application No. 11/094,571	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 03600085-000017	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 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 (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of an advisory action.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Aasheesh Shravah
Sills Cummis
One Riverfront Plaza
Newark, NJ 07102

Attachment: Courtesy copy of advisory action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/094,571	Applicant(s) BOSEL ET AL.
	Examiner Theodore J. Stigell	Art Unit 3763

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

THE REPLY FILED 01 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   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: _____.

NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Theodore J. Stigell

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Terumo Medical Corporation
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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Christoper Bosel et al. :
Application No. 11/094,571 : ON PETITION
Filed: March 31, 2005 :
Attorney Docket No. 03600085-000017 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed April 9, 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 July 10, 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.

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.

An additional petition fee of $1,540 was charged to petitioner's deposit account on March 20, 2008. Since no additional petition fee is required, this fee will be refunded to petitioner's deposit account. However, it is noted that the RCE fee was not charged, as authorized. Therefore, $810 will be charged to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3763 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

cc: Phillip Braginsky
Sills, Cummis & Gross P.C.
One Riverfront Plaza
Newark, NJ 07102

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OFFICE OF PETITIONS

LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE, SUITE 500
FALLS CHURCH, VA 22042

In re Application of	:	
Sang-Hoon SHIN	:	
Application No. 11/094,572	:	DECISION ON PETITION TO
Filed: March 31, 2005	:	WITHDRAW FROM RECORD
Attorney Docket No. **249/550**	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

The request is **NOT APPROVED**.

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

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

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

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

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

cc: **MICHAEL A. CANTOR, ESQ.**
20 CHURCH STREET, 22ND FLOOR
HARTFORD, CT 06103-3207

ATTACHMENT: Request for Withdrawal as Attorney or Agent/Address Change (PTO/SB/83)

Doc Code: PET.POA.WDRW
Document Description: Petition to withdraw attorney or agent (SB83)

PTO/SB/83 (11-08)
Approved for use through 11/30/2011. OMB 0651-0035
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.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	
Filing Date	
First Named Inventor	
Art Unit	
Examiner Name	
Attorney Docket Number	

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

Please withdraw me as attorney or agent for the above identified patent application, and

- ☐ all the practitioners of record;
- ☐ the practitioners (with registration numbers) of record listed on the attached paper(s); or
- ☐ the practitioners of record associated with Customer Number: _____

NOTE: The immediately preceding box should only be marked when the practitioners were appointed using the listed Customer Number.

The reason(s) for this request are those described in 37 CFR :

☐ 10.40(b)(1)	☐ 10.40(b)(2)	☐ 10.40(b)(3)	☐ 10.40(b)(4)
☐ 10.40(c)(1)(i)	☐ 10.40(c)(1)(ii)	☐ 10.40(c)(1)(iii)	☐ 10.40(c)(1)(iv)
☐ 10.40(c)(1)(v)	☐ 10.40(c)(1)(vi)	☐ 10.40(c)(2)	☐ 10.40(c)(3)
☐ 10.40(c)(4)	☐ 10.40(c)(5)	☐ 10.40(c)(6) Please explain below:	

Certifications

Check each box below that is factually correct. WARNING: If a box is left unchecked, the request will likely not be approved.

1. ☐ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment.

2. ☐ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled.

3. ☐ I/We have notified the client of any responses that may be due and the time frame within which the client must respond.

Please provide an explanation, if necessary:

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/83 (11-08)
Approved for use through 11/30/2011. OMB 0651-0035
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.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Complete the following section only when the correspondence address will change. *Changes of address will only be accepted to an inventor or an assignee that has properly made itself of record pursuant to 37 CFR 3.71.*

Change the correspondence address and direct all future correspondence to:

A. ☐ The address of the inventor or assignee associated with Customer Number: _____

OR

B. ☐ Inventor or Assignee name	

Address			
City	State	Zip	Country
Telephone		Email	

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature			
Name		Registration No.	
Address			
City	State	Zip	Country
Date		Telephone No.	

NOTE: ***Withdrawal is effective when approved rather than when received.***

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

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OFFICE OF PETITIONS

In re Application of

G. Diwakar Vishakhadatta
Application No. 11/094,583
Filed: March 30, 2005
Attorney Docket No. SILI1100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 5, 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, ***Sprinkle IP Law Group wishes to terminate attorney/client relationship***, 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.

J. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Maximilian Peterson**
Law Office of Maximilian R. Peterson
P.O. Box 93005
Austin, TX 78709-3005

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ST. PAUL MN 55164-0942

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OFFICE OF PETITIONS

In re Application of :
Brassil, Turba, Schink, Bae, and Watts :
Application No. 11/094,609 :
Filed: March 30, 2005 :
Attorney Docket No. RA 5350K :
For: Component Design by Tables :
Within Tables :

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

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

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

As to item (1), petitioner has failed to prove that diligent effort has been made to locate the non-signing inventor. The petition states Angie Hubbard has failed to locate Bae but fails to discuss the methods she has used to try to locate Bae. Any request for reconsideration should include a declaration signed by a party with first hand knowledge, such as Angie Hubbard, of all the steps taken to try to locate the inventor.

As to item (2), the page of the declaration signed by Watts is missing the name of David Schink. Therefore, the declaration fails to clearly indicate Watts was aware David Schink was being claimed as an inventor. A new copy of the declaration signed by Watts should be submitted with any request for information.

The $200 petition fee will be charged to petitioner's deposit account.

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: Leonard Forbes	: DECISION ON REQUEST FOR
Patent Number	: 7622772	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **50** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexander R. Pagano, Esq.
Green & Pagano, LLP
30 Vreeland Road, Bldg. A, Suite 230A
Florham Park NJ 07932

MAILED JUN 14 2006

In re Application of:CARR et al.
Appl. No.: 11/094,620
Filed: March 30, 2005
For: METHODS AND DEVICES FOR CAVITY CREATION IN MAMMALIAN BONE TISSUE

: DECISION ON PETITION to make SPECIAL under 37 CFR 1.102

This is a decision on the petition filed on April 11, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is DISMISSED.

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that a pre-examination search has been made in Class 606, subclasses 83, 92, 93, 94, 167, 181 and 198; c) a discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b) and (c) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII)(d) and (e). MPEP § 708.02(VIII)(d) requires petitioner to provide a copy of each of the references deemed most closely related to the claimed subject matter present. This requirement may also be met with the filing of an Information Disclosure Statement (IDS) listing the most closely related references. While petitioner states, "These three references are filed herewith attached hereto as Exhibits B-C respectively", no such copies are present in the Image File Wrapper (IFW) system. No IDS filed of concurrent date is seen either. A copy of the search report is seen however this does not fulfill the requirement of submission of a copy of the most closely related prior art references.

Next, regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Applicant provides a discussion of three references alleged to be closely related, but does not point out the particular language of at least the independent claims that distinguishes from these references. Applicant's general allegation that none of the references "teach or suggest an elastomer that expands upon application of a compressive force" does not satisfy the requirements of 37 CFR § 1.111 (c). To meet the requirements of 37 CFR § 1.111 (c), each independent claim must be compared with each reference, and the patentable novelty in each independent claim relative to each reference must be clearly pointed out. Because the petition does not point out the specific language in each independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up for action by the examiner in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide: i) a copy of each reference identified as most closely related to the subject matter encompassed by the claims or an IDS listing the most closely related references; and ii) a detailed discussion of each reference that clearly points out the specific language in each independent claim that distinguishes over the reference as required under 37 CFR § 1.111(c) and discussed hereinabove.

Any inquiry regarding this decision should be directed to Jessica Harrison, Special Program Examiner, at (571) 272-4449.

Petition DISMISSED

J. Harrison, Special Program Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products

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SONNENSCHEIN NATH & ROSENTHAL LLP
P.O. BOX 061080
WACKER DRIVE STATION, WILLIS TOWER
CHICAGO, IL 60606-1080

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In re Application of	:	
Toshinobu Sugiyama	:	
Application No.: 11/094,653	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No.: 09792909-6101	:	

This is a decision on the petition, filed February11, 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 12, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2622 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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UNITED STATES DEPARTMENT OF COMMERCE
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 06/11/2010

Applicant	: Kentaro Yoshimura	: DECISION ON REQUEST FOR
Patent Number	: 7630807	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,660	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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Biomeasure, Incorporated
27 Maple Street
Milford, MA 01757-3650

In re Application of Dong :
Application No. 11/094,662 : Decision on Petition
Filing Date: March 30, 2005 :
Attorney Docket No. 00537-159006/038/US3/PC :

This is a decision in response to the "PETITION UNDER 37 C.F.R. 181" filed April 9, 2008.

The petition is **granted**.

Facts:

The application and a preliminary amendment were filed March 30, 2005. The preliminary amendment added several priority claims.

The Office issued a filing receipt on March 21, 2007. However, the filing receipt contained several errors.

On May 21, 2007, petitioner requested a corrected filing receipt.

The Office issued a new filing receipt on November 28, 2007. However, the new filing receipt also contained errors.

The petition requests the Office correct the priority information.

Discussion:

Petitioner is clearly entitled to a filing receipt that includes his original priority claims. Therefore, the priority claims, as changed by the amendment discussed below, have been corrected in Office records.

Petitioner has also filed an amendment to correct part of the priority claim involving benefit claims based on two provisional applications. The language in the preliminary amendment filed March 30, 2005, appears to indicate application no. 08/779,768 is claiming the benefit of the two provisional applications listed. However, petitioner wishes for application no. 08/626,186, claim the benefit of the two provisional applications.

Normally, a petition under 37 CFR 1.78(a)(6) would be necessary. However, the original filing receipt indicated application no. 08/626,186, not application no. 08/779,768, was claiming priority based on the provisional applications. Since the Office noted the correct claim for priority when it issued the first filing receipt, a petition under 37 CFR 1.78(a)(6) is unnecessary.

Technology Center Art Unit 1654 will be informed of the instant decision and the examiner will review the amendment filed April 9, 2008, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/094,662	03/30/2005	1654	1000	00537-159006 / 038/US3/PC	16	3

CONFIRMATION NO. 1708

CORRECTED FILING RECEIPT

Biomeasure, Incorporated
27 Maple Street
Milford, MA 01757-3650

OC000000032188830

Date Mailed: 09/19/2008

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)

Zheng Xin Dong, Holliston, MA;

Power of Attorney:

Timothy French--30175
J Fasse--32983
Alan Feeney--43609
Tony Uhm--52450
Pamela Ball--53963
Todd Garcia--54112

Domestic Priority data as claimed by applicant

This application is a DIV of 10/289,519 11/06/2002 PAT 6,921,750
which is a CON of 09/399,499 09/20/1999 PAT 6,544,949
which is a CIP of 08/779,768 01/07/1997 PAT 5,969,095
and is a CIP of 09/341,217 11/22/1999 ABN
which is a 371 of PCT/US97/22498 12/08/1997
which is a CIP of 08/813,534 03/07/1997 PAT 5,955,574
which is a CIP of 08/779,768 01/07/1997 PAT 5,969,095
which is a CON of 08/626,186 03/29/1996 PAT 5,723,577
which claims benefit of 60/001,105 07/13/1995
and claims benefit of 60/003,305 09/06/1995

Foreign Applications

If Required, Foreign Filing License Granted: 04/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/094,662**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Analogs of parathyroid hormone

Preliminary Class

530

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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NOV 0 5 2009

OFFICE OF PETITIONS

Biomeasure, Incorporated
27 Maple Street
Milford MA 01757-3650

In re Application of	:	
Zheng Xin Dong, et al.	:	
Application No. 11/094,662	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 00537-159006 / 038/US3/PC	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before December 26, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 26, 2008. Accordingly, the date of abandonment of this application is December 27, 2008. The Notice of Abandonment was mailed January 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,620; 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 application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri 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

cc: **Fish & Richardson, P.C.**
225 Franklin Street
Boston, MA 02110

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Zheng Xin Dong	Art Unit	: 1654
Serial No.	: 11/094,662	Examiner	: Jeffrey E. Russel
Filed	: March 30, 2005		
Title	: ANALOGS OF PARATHYROID HORMONE		

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

PETITION TO REVIVE APPLICATION UNDER 37 CFR §1.137(b)

Applicant hereby petitions under 37 CFR §1.137(b) to revive the above application, which was abandoned on January 22, 2009 for alleged failure to timely pay the issue fee in response to the Notice of Allowance mailed September 26, 2008.

Applicant submits that the entire period of delay was unintentional.

Please apply 1) the balance of $1510 ($300 was paid on October 9, 2008) and 2) $1620 in payment of the petition fee, and any other charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 00537-0159006.

Respectfully submitted,

Date: 2/10/09

/Todd E. Garcia/
Todd E. Garcia, Ph.D.
Reg. No. 54,112

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

petition to revive.doc

11/05/2009 CKHLUK 00000001 061050 11094662
01 FC:1453 1620.00 DA
02 FC:1501 1510.00 DA

CERTIFICATE OF MAILING BY EFS-WEB FILING

I hereby certify that this paper was filed with the Patent and Trademark Office using the EFS-WEB system on this date: February 10, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

Biomeasure, Incorporated
27 Maple Street
Milford, MA 01757-3650

Mail Date: 04/21/2010

Applicant	: Zheng Xin Dong	: DECISION ON REQUEST FOR
Patent Number	: 7632811	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,662	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1002** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

APR 29 2005
JC112
PATENT & TRADEMARK OFFICE

19

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	Larry W. Shipley
SERIAL NUMBER:	11/094,669
FILED:	March 30, 2005
ART UNIT:	To Be Assigned 1754
EXAMINER:	To Be Assigned
FOR:	Process for Recovering Useful Products and Energy from Siliceous Plant Matter

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102(c)

Mail Stop Petition
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant herein petitions to advance the examination of the above-referenced examination, under the provisions of 37 C.F.R. 1.102(c), on the bases that the invention of the referenced application will: first, materially enhance the quality of the environment and/or second, contribute to the conservation of energy resources, as herein explained:

1.

A majority of high-purity amorphous silica is currently produced by precipitation from sodium silicate solution (commercially known as "water glass" or "soluble glass").

2.

A majority of water glass (sodium silicate solution) is currently made by fusing sodium carbonate (commercially known as "soda ash") with sand at high temperatures and pressures then dissolving the resulting sodium silicate into an alkaline solution. In processing sodium carbonate to make sodium silicate, the carbon content of sodium carbonate silicate is driven into the atmosphere.

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 23 2005

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TECHNOLOGY CENTER 2800

In re Patent No. NEAL ET AL. Issue Date: November 28, 2006 Appl No.: 11/094,679 Filed: March 30, 2005 For: FIBER OPTIC THERMAL/FAST NEUTRON AND GAMMA RAY SCINTILLATION DETECTOR	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed 10 October 2007 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David P. Porta
Supervisory Patent Examiner
Art Unit 2884
Technology Center 2800

UT-Battelle, LLC
Office of Intellectual Property
One Bethal Valley Road
4500N, MS-6258
Oak Ridge, TN 37831

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Paper No. 6

DONALD B. HASLETT
1600 ODS TOWER
601 S.W. SECOND AVENUE
PORTLAND, OREGON 97204-3157

RECEIVED
OCT 30 2001
CHERNOFF, VILHAUER, McCLUNG & STENZEL

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OCT 24 2001
OFFICE OF PETITIONS

In re Application of
Tommy L. Liittschwager et al.
Application No. 09/779,199
Filed: February 7, 2001
For: ARTICLES OF COMPOSITE STRUCTURE HAVING APPEARANCE OF WOOD

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

This is in response to the "Petition Under 37 CFR 1.47(a)," filed September 24, 2001.

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.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (703) 306-5684.

This application is being forwarded to the Initial Patent Examination Unit.

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

BEST AVAILABLE COPY

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KILPATRICK STOCKTON LLP
1001 WEST F9OURTH STREET
WINSTON-SALEM, NC 27101

COPY MAILED

JUN 29 2006

OFFICE OF PETITIONS

In re Application of
Tommy L. Liittschwager et al
Application No. 11/094,697
Filed: March 30, 2005
Attorney Docket No. 49942/314381

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

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

A review of the file record indicates that the power of attorney to John C. Alemanni, along with all of the other attorneys associated with Customer No. **43925** has been revoked by the assignee of the patent application on September 12, 2005, and resubmitted on January 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 3726 to await a reply to the Non-final Office action mailed on March 29, 2006.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: M

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LANXESS CORPORATION
LAW & INTELLECTUAL PROPERTY DEPARTMENT
111 PARK WEST DRIVE
PITTSBURGH, PA 15275-1112

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NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of	:
Hermann-Josef Weidenhaupt	:
Application No. 11/094,701	: DECISION ACCORDING STATUS
Filed: March 30, 2005	: UNDER 37 CFR 1.47(a)
Attorney Docket No. CH-8327/LeA36,990	:

This is in response to the petition filed October 26, 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 30, 2005, without an oath or declaration. Accordingly, on April 26, 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 naming Hermann-Josef Weidenhaupt, Hartmuth Buding, Josef Hahn, Andreas Mihalyi and Uwe Zettil as joint inventors but only executed by inventors Weidenhaupt, Buding, Hahn and Zettil, a late filing surcharge and a request for a four month extension of time were filed. The petition argues that joint inventor Mihalyi refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

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

The petition bears proof that the application papers were forwarded to and received by Mr. Mihalyi 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.

Please be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 50-2527 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.

This matter is being referred to Technology Center 1713 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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ANDREAS MIHALYI
CONCORDIASTR 3
50374 ERFTSTADT
GERMANY

COPY MAILED

NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of
Hermann-Josef Weidenhaupt et al.
Application No. 11/094,701
Filed: March 30, 2005
For: NOVEL VULCANIZING AGENTS BASED ON ORGANIC SULPHUR-NITROGEN COMPOUNDS FOR UNSATURATED RUBBERS AND MIXTURES OF THESE

Dear Mr. Mihalyi:

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
LANXESS CORPORATION
LAW & INTELLECTUAL PROPERTY DEPARTMENT
111 PARK WEST DRIVE
PITTSBURGH, PA 15275-1112

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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

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AUG 06 2007

OFFICE OF PETITIONS

In re Application of :
Andersson :
Application No. 11/094,702 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. SG 05048 :
For: REFLECTING MATERIAL

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2007 (certificate of mailing date April 18, 2007), to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application, mailed April 26, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on June 27, 2005. A Notice of Abandonment was mailed on January 10, 2006.

Applicant has submitted a proper reply to the April 26, 2005 Notice in the form of an executed declaration and $130.00 surcharge, an acceptable statement of the unintentional nature of the delay in responding to the April 26, 2005 Notice, and the $1,500.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

After the mailing of this decision, the file will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE, PA 15146

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MAR 04 2009

OFFICE OF PETITIONS

In re Application of Anderson :
Application No. 11/094,702 :
Filing Date: March 30, 2005 :
Attorney Docket No. SG 05048 :

Decision on Petition

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

The petition is **granted**.

The Office mailed a non-final Office action on February 26, 2008. The Office action set a shortened statutory period for reply of three (3) months

A reply to the Office action was filed August 28, 2008, and included a certificate of mailing date of August 25, 2008.

Although the transmittal papers filed August 28, 2008, indicated $1,020 was being supplied as payment for a three-month extension of time, the Office failed to receive a credit card authorization form.

Since no extensions of time were obtained, the application became abandoned on Wednesday, May 28, 2008.[1]

A Notice of Abandonment was mailed September 5, 2008.

The instant petition requests revival of the application.

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

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and

[1] May 26, 2008, was a federal holiday. Therefore, the last day for reply, without an extension of time, was May 27, 2008.

(4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the non-final Office action in the form of an amendment. Petitioner has submitted the required petition fee of $1,540. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition is accompanied by payment of $1,020 for a three-month extension of time. However, payment for an extension of time is unnecessary when reviving an application. Therefore, the sum of $1,020 has been refunded to petitioner's credit card.

Technology Center Art Unit 1791 will be informed of the instant decision and the application will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Nahid Razi	: DECISION ON REQUEST FOR
Patent Number	: 7585503	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,704	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **79** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JJGJR.: 02-06

Paper No: __

ABELMAN, FRAYNE
& SCHWAB
150 EAST 42ND STREET
NEW YORK NY 10017-5612

COPY MAILED

FEB 2 2 2006

OFFICE OF PETITIONS

In re Application of :
Lieberman :
Application No. 11/094,706 :
Filing Date: 30 March, 2005 :
Attorney Docket No. 206,934 :

This is a decision on the petition filed on 23 January, 2006, to revive the instant application 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice to File Corrected Application Papers (drawings requirements) mailed on 25 April, 2005, with reply due absent extension of time on or before Monday 27 June, 2005;
- the Application went abandoned after midnight 25 June, 2005;
- the Office mailed a Notice of Abandonment on 10 January, 2006;
- with the instant petition and fee, Petition files a reply in the form of corrected drawings and makes the statement of unintentional delay.

Thus, Petitioner is considered to have satisfied the requirements of the regulation.

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).[1]

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.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to Unintentional Delay

---

[1] 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.

[2] 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.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

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

A grantable petition under 37 C.F.R. §1.137(b) requires a petition, fee, statement of unintentional delay, reply, and a terminal disclaimer and fee if appropriate.

As indicated above, Petitioner has satisfied the requirements of the regulation.

CONCLUSION

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

The application is released to OIPE for further processing before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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IBM CORPORATION
ROCHESTER IP LAW DEPT. 917
3605 HIGHWAY 52 NORTH
ROCHESTER, MN 55901-7829

Mail Date: 04/20/2010

Applicant	: William Joseph Armstrong	: DECISION ON REQUEST FOR
Patent Number	: 7613897	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,712	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1253** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JONES DAY
77 WEST WACKER
CHICAGO IL 60601-1692

In re Application of	:	
EVANYK, Walter R.	:	
Application No. 11/094,729	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. **090238600032**	:	FROM RECORD
	:	

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 17, 2009 and resubmitted March 30, 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 Paul Schrier on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed October 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: **WALTER R. EVANYK**
3200 SHERRYE DRIVE
PLANO, TX 75074-4693

cc: **P2 TECHNOLOGIES, L.P.**
c/o SEALY & COMPANY, INC.
8401 NORTH CENTRAL EXPRESSWAY
SUITE 150, LB 29
DALLAS, TX 75225

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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Rephael Tzakikario	: DECISION ON REQUEST FOR
Patent Number	: 7620733	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/094,737	03/30/2005	Steven Wayne Terry	200313073-1	3116

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

EXAMINER
ELPENORD, CANDAL

ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY
04/04/2005 DTESSEM1 00000092 082025 11094737
02 FC:1111 500.00 CR
04 FC:1202 600.00 CR
05 FC:1201 200.00 CR

FORM PET651G (Rev. 08/07)

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JAGTIANI & GUTTAG
1063-A DEMOCRACY LANE
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of	:	
Matthijs Killian et al.	:	
Application No. 11/094,769	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 22409-00469-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2007.

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

A review of the file record indicates that the power of attorney to Ajay A. Jagtiani and all attorneys/agents associated with customer number 22506 has been revoked by the assignee of the patent application on August 28, 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.

There is no outstanding office action at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Connolly, Bove, Lodge & Hutz, LLP
1875 Eye Street, N.W.
Suite 1100
Washington, DC 20036

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

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JUL 12 2007

OFFICE OF PETITIONS

In re Application of Sonja Barnet et al Application No. 11/094,776 Filed: March 30, 2005 Attorney Docket No. 13907-098001/2005P00086	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed July 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 4, 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 2125 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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 07/21/2010

Applicant	: Gyoo Ha Jung	: DECISION ON REQUEST FOR
Patent Number	: 7665318	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,781	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **840** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Scott J. Anchell
Morgan, Lewis, & Bockus LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

In re Application of	:
Gilles DeLaire et al	:
Serial No.: 11/094,789	: PETITION DECISION
Filed: March 31, 2005	:
Attorney Docket No.: 2004P05365US01	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed March 31, 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 lacks the required amendment to the specification. Applicants should submit a renewed petition accompanied by the required amendment as a separate paper. No additional petition fee will be required.

The petition is **DISMISSED**.

Should there be any questions with respect to this decision, please contact Gregory L. Huson, by mail addressed to: Director, Technology Center 3700, at the address listed above, or by telephone at 571-272-4887 or by facsimile transmission at 571-273-4887.

Gregory L. Huson
S.P.E., Technology Center 3700

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

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OFFICE OF PETITIONS

In re Application of	:	
Kurt Nell, et al.	:	
Application No. 11/094,805	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. 11336-867 (P04095US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman – Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on June 24, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHBRIDGE, CA 91329

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JUN 16 2009

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

In re Application of :
Bailey, et al. : LETTER REGARDING PTA
Application No. 11/094,814 :
Filed: March 29, 2005 :
Atty. Dkt. No.: 16113-1110001 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed April 10, 2009. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed January 28, 2009 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 332 days. Applicants indicate that this adjustment may be longer than appropriate and direct the Office's attention to the information disclosure statement (IDS) filed January 22, 2009.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 245 days.

At the time of allowance, the application was entitled to an adjustment of 400 days pursuant to 37 CFR 1.702(a). The adjustment was properly reduced 68 days as a result of two delays under 37 CFR 1.702(b).

The adjustment is further properly reduced 87 days pursuant to 37 CFR 1.704(c)(8) in connection with the IDS submitted January 22, 2009. The adjustment commenced October 28, 2008, the day after the date that a reply to the non-final Office action mailed July 28, 2008 was filed, and ended January 22, 2009, the date that the supplemental reply (IDS) was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 245 days (adjustment totalling 400 less reduction totalling 155 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculation

Day : Sunday
Date: 6/14/2009

PALM INTRANET

Time: 12:17:03

PTA Calculations for Application: 11/094814			
Application Filing Date:	03/29/2005	PTO Delay (PTO):	400
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	68
Post-Issue Petitions:	0	Total PTA (days):	245
PTO Delay Adjustment:	-87		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
112	06/14/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		87	
81	01/28/2009	MAIL NOTICE OF ALLOWANCE			
80	01/22/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
79	01/22/2009	ISSUE REVISION COMPLETED			
78	01/07/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
77	01/07/2009	DOCUMENT VERIFICATION			
76	01/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
75	01/05/2009	EXAMINER'S AMENDMENT COMMUNICATION			
74	12/03/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
73	01/05/2009	NOTICE OF ALLOWABILITY			
72	10/28/2008	DATE FORWARDED TO EXAMINER			
71	10/27/2008	RESPONSE AFTER NON-FINAL ACTION			
70	10/01/2008	MISCELLANEOUS INCOMING LETTER			
69	10/15/2008	EMAIL NOTIFICATION			
68	10/15/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
67	10/08/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
66	07/28/2008	MAIL NON-FINAL REJECTION			
65	07/25/2008	NON-FINAL REJECTION			
64	06/30/2008	DATE FORWARDED TO EXAMINER			
63	06/23/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
62	06/30/2008	DATE FORWARDED TO EXAMINER			

61	06/23/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		39	47
60	06/30/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
59	06/23/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
58	05/28/2008	CASE DOCKETED TO EXAMINER IN GAU			
57	05/22/2008	MAIL ADVISORY ACTION (PTOL - 303)			
56	05/21/2008	ADVISORY ACTION (PTOL-303)			
55	05/20/2008	CASE DOCKETED TO EXAMINER IN GAU			
54	05/10/2008	DATE FORWARDED TO EXAMINER			
53	04/15/2008	AMENDMENT AFTER FINAL REJECTION			
52	04/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	04/23/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
50	04/10/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
49	04/18/2008	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
48	04/15/2008	CORRESPONDENCE ADDRESS CHANGE			
47	02/15/2008	MAIL FINAL REJECTION (PTOL - 326)			
46	02/14/2008	FINAL REJECTION			
45	12/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
44	12/26/2007	REFERENCE CAPTURE ON IDS			
43	12/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	41
42	01/13/2008	DATE FORWARDED TO EXAMINER			
41	12/26/2007	RESPONSE AFTER NON-FINAL ACTION		29	37
40	12/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	12/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
38	10/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
37	08/27/2007	MAIL NON-FINAL REJECTION			
36	08/20/2007	NON-FINAL REJECTION			
35	09/12/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	11/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

33	03/28/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	11/27/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	01/25/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	08/03/2007	DATE FORWARDED TO EXAMINER			
27	08/01/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
26	07/03/2007	MAIL RESTRICTION REQUIREMENT	400		-1
25	06/25/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
24	06/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	05/18/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	01/25/2007	REFERENCE CAPTURE ON IDS			
21.7	01/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	01/25/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	11/27/2006	REFERENCE CAPTURE ON IDS			
19.7	11/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	11/27/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	05/15/2006	CORRESPONDENCE ADDRESS CHANGE			
17.7	03/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	03/28/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
15.7	11/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	11/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/09/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	12/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	09/12/2005	REFERENCE CAPTURE ON IDS			
10.7	09/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/12/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/14/2005	APPLICATION DISPATCHED FROM OIPE			

8	07/14/2005	APPLICATION IS NOW COMPLETE			
7	06/30/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	06/30/2005	SMALL ENTITY STATEMENT (37 CFR 1.27)			
5	06/30/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	04/27/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	04/19/2005	CLEARED BY OIPE CSR			
2	04/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/29/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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JUL 2 5 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of	)
	) Atty. Docket No.: **SAMBO0004**
Keiichiro Oishi	)
	)
Serial No. 11/094,815	) Group Art Unit: 1742
	)
Filed: March 31, 2005	)
	) Examiner: Not assigned
For: COPPER/ZINC ALLOYS HAVING LOW LEVELS OF LEAD AND GOOD MACHINABILITY	)

PETITION (A) FOR ADVANCEMENT OF EXAMINATION PURSUANT TO 37 C.F.R. § 1.102

MAIL STOP: PETITIONS

United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicant Keiichiro Oishi (hereafter, "Applicant Oishi") has made application for patent in the above-captioned matter in accordance with 35 U.S.C. § 111(a) and respectfully petitions the United States Patent and Trademark Office (USPTO) to make the present application special on the grounds that the claimed invention will materially enhance the quality of the environment in accordance with 37 C.F.R. § 1.102(c)(2)(i). In support of the

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 AUG 10 2005

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

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OFFICE OF PETITIONS

In re Application of	:	
Kurt Nell	:	
Application No. 11/094,825	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. 11336-364 (P04097US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman – Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on June 24, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHBRIDGE, CA 91329

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LAW OFFICES OF MAXIMILLIN R.
PETERSON
P.O. BOX 93005
AUSTIN, TX 78709-3005

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In re Application of	:	
Augusto Manuel MARQUES	:	
Application No. 11/094,833	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. SIL.P0085	:	

This is a decision on the petition, filed July 20, 2009, requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.8(b).

The petition is **GRANTED**.

Petitioner asserts that the abandonment be withdrawn as petitioner timely filed a response to the Notice mailed February 04, 2009. Applicant has: (1) informed the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence; (2) supplied an additional copy of the previously mailed or transmitted correspondence and certificate; and (3) included a statement which attests on a personal knowledge basis or the satisfaction of the director to the previously timely mailing or transmission along with a copy of the sending units report confirming transmission. Accordingly, the provisions of 37 CFR 1.8(b) have been met.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 2823 for appropriate action in the normal course of business on the reply received with petition.

David A. Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

In re Application of	:	
Jeff G. WELLS	:	
Application No. 11/094,835	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. TRE-011 CP	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 26, 2009, 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 March 26, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 27, 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 amendment (2) the petition fee of $1,620.00 and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of March 26, 2008 has been accepted as having been unintentionally delayed.

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

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

The application is being referred to the Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

Cc: **PATRICK YODER**
FLETCHER, YODER & EDWARDS
P.O. BOX 692289
HOUSTON, TX 77269

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ONE INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
WELLS, Jeff G.	:	
Application No. 11/094,835	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. **TRE-011 CP**	:	FROM RECORD
	:	

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 15, 2009.

The request is **APPROVED**.

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

The request was signed by Gerald E. Worth on behalf of all attorneys of record who are associated with customer No. 42532. All attorneys/agents associated with 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.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JEFF G. WELLS**
2570 NORTH TALBOT ROAD
OLD CASTLE (WINDSOR), ONTARIO
CANADA, N0R 1L0

cc: **ILLINOIS TOOL WORKS, INC.**
3600 WEST LAKE AVENUE
GLENVIEW, IL 60026-1215

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JEFF G. WELLS
2570 NORTH TALBOT ROAD
OLD CASTLE (WINDSOR), ONTARIO, N0R 1L0
CANADA

Mail Date: 04/27/2010

Applicant	: Jeff G. Wells	: DECISION ON REQUEST FOR
Patent Number	: 7663074	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,835	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **821** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Jennifer C. Bailey
HOVEY WILLIAMS LLP
Suite 400
2405 Grand
Kansas City, MO 64108

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OFFICE OF PETITIONS

In re Application of

Vince McRoberts

Application No. 11/094,859

Filed: March 31, 2005

Attorney Docket No. 35966

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed January 6, 2005.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on September 22, 2005, after it was believed that no response was received to the non-final Office action June 22, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on January 12, 2006, indicating that a reply was not received.

A review of the record reveals that an amendment intending to be responsive to the non-final Office action was received on September 9, 2005, as evidenced by a review of the application file record and the Office date-stamped postcard that accompanied the instant petition. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3643, for further processing.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Dwight N. Holmbo
611 1st Street N.
Waterville, MN 56096

In re Application of	:	
Matthew J. Dunfee et al.	:	
Application No. 11/094,862	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. DUNF-0102	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2007.

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

A review of the file record indicates that the power of attorney to Dwight N. Holmbo has been revoked by the applicant of the patent application on April 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Hamre, Schumann, Mueller & Larson, P.C.**
P.O. Box 2902
Minneapolis, MN 55402-0902

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Technology Center 2100

Lipsitz & McAllister, LLC
755 Main Street
Monroe, CT 06468

In re Application of: Edward A. Krause	)	
Application No. 11/094,865	)	Petition under 37 CFR 1.48(a)
Attorney Docket No. RGB-107	)	
Filed: April 1, 2005	)	
For: Time-Multiplexed Multi-Program	)	
Encryption System	)	

In view of the papers and petition filed January 13, 2006, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Peter Monta, such that the current inventorship is now Edward A. Krause and Peter Monta.

The petition has been **Granted**.

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

Inquiries to this decision may be directed to Special Programs Examiner Tod Swann at (571) 272-3612.

Tod Swann, WQAS
Technology Center 2100
Computer Architecture, Software, and Information Security

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Lipsitz & McAllister, LLC
755 MAIN STREET
MONROE, CT 06468

Mail Date: 04/20/2010

Applicant	: Edward A. Krause	: DECISION ON REQUEST FOR
Patent Number	: 7590237	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,865	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of
Barry G. Lawrence
Application No. 11/094,898
Filed: March 21, 2005
Attorney Docket No. 5451-0102PUS1

DECISION ON PETITION

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

This application became abandoned for failure to timely pay the issue and publication fees on or before October 31, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 31, 2007. Accordingly, the date of abandonment of this application is November 1, 2007.

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

The petition 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 payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/094,898	03/31/2005	Barry G. Lawrence	5451-0102PUS1

CONFIRMATION NO. 3022

POA ACCEPTANCE LETTER

2292
BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

OC000000032177890

Date Mailed: 09/22/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/21/2008.

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

/amwise/

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

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OFFICE OF PETITIONS

In re Application of
Toshihide Kadota
Application No. 11/094,900
Filed: March 31, 2005
Attorney Docket No. **18523-006001/1793-US**

ON PETITION

This is a decision on the petition filed August 25, 2008, under 37 CFR 1.181, to withdraw the holding of abandonment.

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

This application became abandoned April 9, 2008 for failure to file a timely response to the non-Final Office Action mailed January 8, 2008. Accordingly, a Notice of Abandonment was mailed July 31, 2008.

Petitioner claims that the non-Final Office Action mailed January 8, 2008 was never received in that the Office Action was mailed to a previous address even though a power of attorney was filed March 31, 2005. Petitioners provide a copy of the power of attorney as proof of filing prior to the date the non-Final Office Action was mailed.

A review of the file confirms that a power of attorney and address change was filed on March 31, 2006 but the USPTO records were not updated. While the file reveals that the non-Final Office Action was returned by the USPTO as undeliverable, petitioners have effectively demonstrated their diligent efforts to update the address by customer number and to ensure that correspondence mailed from the USPTO was properly addressed.

The non-Final Office Action was mailed to the wrong address and as petitioners claim, not received. In view of the above, no petition fees are due and none have been charged.

The Notice of Abandonment is withdrawn and this matter is being referred to Technology Center 2611 for appropriate treatment of the amendment filed August 25, 2008 with the instant petition and in response to the non-Final Office Action mailed January 8, 2008.

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

Mail Date: 04/20/2010

Applicant	: Steven D. Thelss	: DECISION ON REQUEST FOR
Patent Number	: 7645478	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,928	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **985** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of :
Randy Kilburn, et al. :
Application No. 11/094,929 : ON PETITION
Filed: March 31, 2005 :
Attorney Docket No. 1671-0324 :

This is a decision on the petition, filed December 16, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered attorney or agent of record. However, in accordance with 37 CFR 1.34(a), the signature of James D. Wood 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. If Mr. Wood desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed solely to the address of record.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed September 16, 2009, requiring replacement drawings. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on November 17, 2009. A Notice of Abandonment was mailed on November 30, 2009. On December 16, 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 replacement drawings; (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 the Office of Data Management to oversee the review of the drawing filed December 16, 2009 and for processing into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES D. WOOD
MAGINOT, MOORE & BECK, LLP
CHASE TOWER
111 MONUMENT CIRCLE, SUITE 3250
INDIANAPOLIS, IN 46204-5109

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

Mail Date: 08/03/2010

Applicant	: Toshihide Kadota	: DECISION ON REQUEST FOR
Patent Number	: 7643545	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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101 South Tryon Street, Suite 4000
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AUG 16 2005

OFFICE OF PETITIONS

In re Application of	:
Thezier et al.	: DECISION REFUSING TO
Application No. 11/094,935	: ACCORD STATUS UNDER
Filed: March 31, 2005	: 37 CFR 1.47(a)
Attorney Docket No. D-30385-01	:

This is in response to the petition under 37 CFR 1.47(a), filed July 5, 2005. Applicants obtained an extension of time for response within the first month. Accordingly, the petition is timely filed.

The petition is dismissed.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On March 31, 2005, applicants filed the above-identified application, without an executed oath or declaration. Accordingly, on April 25, 2005, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an oath or declaration and a surcharge for its late filing.

In response, on July 5, 2005, applicants submitted the present petition, a request for an extension of time for response within the first month, a declaration executed by three of the four joint inventors, a Statement of Facts of Thomas C. Lagaly, and the requisite fees.

In the Statement of Facts, Mr. Lagaly stated that on June 7, 2005, a Combined Declaration and Power of Attorney, an Assignment, and A DHL airway bill with pre-paid postage were sent to the nonsigning inventor, Daniel R. Melton, via US Postal Service Certified Mail. Mr. Lagaly further indicated that the USPS attempted to deliver the documents to Mr. Melton on June 11, 2005. A notice was left at the nonsigning inventor's address for the documents to be redelivered or claimed at the Post Office. As of June 23, 2005, Mr. Melton has not contacted the USPS regarding the notice. Mr. Lagaly stated that Employee Development was contacted on June 6, 2005, and confirmed that all attempts to mail post-employment correspondence to Mr. Melton at his last known address were returned as undeliverable.

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

As to item (1), it does not appear that applicants presented the nonsigning inventor with a complete copy of the application papers, including the specification, claims, and drawings. Rather, Mr. Lagaly stated that only a Combined Declaration and Power of Attorney and an Assignment were mailed to Mr. Melton. Therefore, applicants failed to show or provide proof that the inventor refused to sign the declaration.

Before an inventor can refuse to sign an oath or declaration, he must have been presented with a copy of the application papers (specification, claims and drawings). See MPEP 409.03(d). To show refusal to join in the application, applicants must show that applicants presented the nonsigning inventor with a copy of the application papers, but that he refused the request that he sign the declaration. Someone with firsthand knowledge of the events should make a statement regarding the pertinent facts.

However, it appears that applicants can no longer locate the nonsigning inventor. As previously stated, Mr. Melton's post-employment mail has been returned as undeliverable. If the nonsigning inventor cannot be located, applicants should submit a statement that fully describes the exact facts that are relied on to establish that applicants made a diligent effort to locate the inventor. A person having firsthand knowledge of the events should

sign the statement of facts, where at all possible. If attempts to obtain a forwarding address and to locate the nonsigning inventor by means such as a telephone directory 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. Applicants should submit documentary evidence such as the results of a search of the Internet or the telephone directory for Mr. Melton's most current mailing address, email address or telephone number. It is important that the forthcoming communication contains statements of fact as opposed to conclusions.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney:**

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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101 South Tryon Street, Suite 4000
Charlotte NC 28280-4000

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OCT 1 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Thezier et al.	:	DECISION NOTING JOINDER OF
Application No. 11/094,935	:	INVENTOR AND PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.47(a) MOOT
Attorney Docket No. D-39385-01	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed on September 29, 2005.

In view of the joinder of the inventors, further consideration under 37 CFR 1.47(a) is not necessary. Accordingly, the petition is dismissed as involving a moot issue. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application does not need to be returned to the Office of Petitions for further consideration under 37 CFR 1.47(a).

This matter is being referred to Technology Center Art Unit 1771.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/17/09

Paper No.:

TO SPE OF : ART UNIT 3753

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/094936 Patent No.: 7494107 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

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: _____

Robin D. Evans — SPE

3753 — Art Unit

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MAY 06 2009

OFFICE OF PETITIONS

HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 11/094,946	:	TO WITHDRAW
Filed: March 31, 2005	:	FROM RECORD
Attorney Docket No. 1008 083 301 0251	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2005.

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

A review of the file record indicates that the power of attorney to practitioners associated with Howard J. Greenwald P.C. has been revoked by the assignee of the patent application on May 31, 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 Alicia Kelley at 571-272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD NY 14534

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FOGG & POWERS LLC
10 SOUTH FIFTH STREET
SUITE 1000
MINNEAPOLIS MN 55402

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APR 30 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of
David J. Conyers, et al.
Application No. 11/094,947
Filed: March 31, 2005
Atty Docket No.: 100.684US01

This is a decision on the petition, filed April 29, 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 23, 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]

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

[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.*

The application is being referred to Technology Center AU 2617 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: J. PATRICK KENDRICK
FOGG & POWERS LLC
P.O. BOX 581339
MINNEAPOLIS MN 55458-1339

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 04/27/2010

Applicant	: David J. Conyers	: DECISION ON REQUEST FOR
Patent Number	: 7640019	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/094,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **654** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Vibhor Julka	: DECISION ON REQUEST FOR
Patent Number	: 7606197	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/094,951	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **763** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Customer No:	000027777	Confirmation No. 3364	
In re application of:	DiSilvestro	Atty Dkt. Ref.: DEP5461USNP	
Serial No.:	11/094,956	Art Unit: 3775	
Filed:	March 31, 2005	Examiner: Nicholas W. Woodall	
Issue Date:	November 10, 2009	Patent No.: 7,615,055	

Title: METHOD AND APPARATUS FOR USE IN BALANCING LIGAMENTS OF A KNEE

I certify this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office at (571) 273-8300 on January 11, 2010.

Ellen Ciambrone Coletti

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

PETITION TO HAVE PATENT TERM ADJUSTMENT RECALCULATED

Dear Sir:

The Commissioner is petitioned to recalculate the Patent Term Adjustment under 35 USC 154(b) for the above case in accordance with the holding in United States Court of Appeals for the Federal Circuit decision dated January 7, 2010, *Wyeth and Elan Pharma International Limited v. Kappos*.

It is believed this petition is required due to no error on the part of the Patent Holder, and that no fee is required. In the event a fee is determined to be required, the Commissioner is authorized to charge the fee to Deposit Account 10-0750.

Respectfully Submitted,

Ellen Ciambrone Coletti
Reg. No. 34,140
Attorney for Assignee

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ, 08933-7003
Date: January 11, 2010

03/15/2010 CKHLUK 00000024 100750 7615055
01 FC:1455 200.00 DA

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JUN 0 9 2008

In re Application of	:	
David Emerson **Greer** et al.	:	
Application No. 11/094,957	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 2004-0755.02	:	

This is a decision on the petition, filed April 07, 2008, which is properly treated under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed September 04, 2007, which set a statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 05, 2007.

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

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2861 for appropriate action by the Examiner in the normal course of business on the reply received

David A. Bucci
Petitions Examiner
Office of Petitions

cc:
One Dayton Centre
One South Main Street, Suite 1300
Dayton, Ohio 45402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

In re Application of
Matthew K. Gray, et al.
Application No. 11/094,987
Filed: March 31, 2005
Attorney Docket No. 43390-8059.US01

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision in response to the replacement petition, filed August 31, 2009, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification of the filing in a foreign country of an application directed to the invention disclosed in the subject application. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner indicates that the instant nonprovisional application became the subject of an application filed in a foreign country on March 24, 2006. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen month publication country 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.

While this application has been abandoned for an extended period of time, the U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

Therefore, 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.

Since this application matured into Patent No. 7,551,574 on June 23, 2009, no further action is required.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUL 0 8 2008

OFFICE OF PETITIONS

EDWARD ANGELL PALMER & DODGE, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of	:	
LERCH, et al.	:	
Application No. 11/095,017	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. **66600(51225)**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **EDWARD ANGELL PALMER & DODGE, LLP** has been revoked by the assignee of the patent application on March 7, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **HAMILTON BROOK SMITH & REYNOLDS, PC**
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of	:	
LERCH, et al.	:	
Application No. 11/095,017	:	DECISION ON PETITION
Filed: March 31, 2005	:	UNDER 1.137(b)
Attorney Docket No. **66600(51225)**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 7, 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 July 27, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 27, 2007. Accordingly, the date of abandonment of this application is July 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440, the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

It is noted that a terminal disclaimer and fee was concurrently filed with this petition on March 7, 2008. However, the filing of a terminal disclaimer was unnecessary. Petitioner may request a refund of the $130 terminal disclaimer fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 12/10/08

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/095017 Patent No.: 7417541 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

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:

Suggested correction to claim 1 changes the scope of the claim.
Changing the word "along" in claim 13 to "on" changes the scope of the claim. All other changes to claim 13 are appropriate.
Proposed changes to claim 16 change the scope of the claim.
Deleting the phrase "at least one of an electro-magnetic and acousto-magnetic" from claim 18 changing the scope of the claim. All other changes to claim 18 are appropriated.

/Benjamin C. Lee/ — SPE

2612 — Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 6/17/09

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/095017 Patent No.: 7417541 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:

NOTE

Certificates of Correction Branch (C of C)
Randolph Square 9D62-B
Palm Location 7580

Reconsideration

Col. 9- lines 46-47
Col. 10- lines 29, 44 and 54 through 55

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

Thank You For Your Assistance

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

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

Comments: _____

/Benjamin C. Lee/
SPE

2612
Art Unit

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UNITY SEMICONDUCTOR CORPORATION
250 NORTH WOLFE RD
SUNNYVALE CA 94085

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FEB 07 2006

OFFICE OF PETITIONS

In re Application of	:	
Rinerson, et al.	:	
Application No. 11/095,026	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. P049.05 CIP41	:	

This is a decision on the "Petition pursuant to 37 C.F.R. §1.181(f) and 37 C.F.R. §1.53(e)(2)", filed January 17, 2006,to accord the above-identified application a filing date of March 30, 2005, with 9 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on March 30, 2005. However, on January 4, 2006, the Initial Patent Examination Division mailed Applicants a "Notice of Incomplete NonProvisional Application." Applicants were notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition. Accompanying the petition was a copy of 9 drawing sheets. Applicants maintain that the application as originally filed included these pages of drawings. In support thereof, applicants submitted a receipt identifying this application, itemizing 9 pages of drawings, bearing a United States Patent and Trademark Office date-stamp of March 30, 2005, and lacking any notation of non-receipt of any item listed.

A receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $400 petition will be refunded under separate cover.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of March 30, 2005, using the application papers received in the Office on that date and the 9 pages of drawings as re-supplied on petition filed January 17, 2006.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITY SEMICONDUCTOR CORPORATION
250 NORTH WOLFE ROAD
SUNNYVALE CA 94085

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APR 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Rinerson et al.	:	
Application No. 11/095,026	:	ON PETITION
Filed: 30 March, 2005	:	
Atty Docket No. UNTYP041X1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 26 August, 2005, 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 Application Data Sheet (ADS) filed concurrently with the instant petition.

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

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an ADS, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

The application will be referred to the Office of Initial Patent Examination for further processing. The examiner will consider the claim under 35 U.S.C. § 120 for the benefit of the above-noted, prior-filed nonprovisional application in due course.

Telephone inquiries related to this decision should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions

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OFFICE OF PETITIONS

UNITY SEM9ICONDUCTOR CORPORATION
255 SANTA ANA COURT
SUNNYVALE CA 94085-4511

In re Application of	:	
Darrell Rinerson et al	:	
Application No. 11/095,026	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. P049.05.CIP41	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed January 7, 2008, 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 2815 for appropriate action by the Examiner in the normal course of business on the reply received October 23, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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AUG 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Paolo Vatta et al.	:	
Application No. 11/095,042	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 4898 US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 4, 2007.

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

A review of the file record indicates that the power of attorney to Schwegman, Lundberg, Woessner & Kluth, P.A. has been revoked by the assignee of the patent application on March 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 Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mila Kasan**
Patent Dept.
Applied Biosystems
850 Lincoln Centre Drive
Foster City, CA 94404

UNITED STATES PATENT AND TRADEMARK OFFICE

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Thomas P. Liniak
Valeo Climate Control Corp.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills, MI 48326

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SEP 0 5 2006
OFFICE OF PETITIONS

In re Application of :
Kenneth H. Ellison et al. :
Application No. 11/095,058 : DECISION ON PETITION
Filed: March 31, 2005 : TO WITHDRAW
Attorney Docket No. TUS0410 : FROM RECORD

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak.

Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

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

Diana Chase for
David Bucci
Petitions Examiner
Office of Petitions

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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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 07/16/2010

Applicant	: Jacco Brok	: DECISION ON REQUEST FOR
Patent Number	: 7647048	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/095,059	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1252** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Garrett and Pohl	:	
Application No. 11/095,083	:	DECISION ACCORDING STATUS
Filed: 29 March, 2005	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 560302-1680	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 29 June, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Bradley Stephen Garrett, has refused to review the application and sign the declaration. Specifically, petitioners have shown by counsel's statement in the petition, that the non-signing inventor refused during a telephone call to review the application and sign the declaration naming him as a joint inventor along with Christopher Joseph Pohl.

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 petition, not the declaration. Notice of the filing of this application will also be published in the *Official Gazette*.

The application is being referred to Technology Center 2875 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-05

Bradley Stephen Garrett
2351 Locust Street
Denver CO 80207

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AUG 01 2005

OFFICE OF PETITIONS

In re Application of
Garrett et al.
Application No. 11/095,083
Filed: 29 March, 2005
For: DIRECT-INDIRECT LUMINAIRE WITH SHUTTER

Dear Mr. Garrett:

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

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

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KING & SPAULDING, LLP
1180 PEACHTREE STREET
ATLANTA, GA 30309-3521

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FEB 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Bradley Stephen Garrett et al.	:	
Application No. 11/095,083	:	DECISION ON PETITION
Filed: March 29, 2005	:	
Attorney Docket No. 13682.105018	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 24, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 25, 2007. A Notice of Abandonment was mailed on July 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $1,540.00, and (3) an adequate 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.

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 petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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 on October 19, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2885 for appropriate action by the Examiner in the normal course of business on the reply received October 19, 2007.

David Bucci
Petitions Examiner
Office of Petitions

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

Applicant	: Heui Sang Yoon	: DECISION ON REQUEST FOR
Patent Number	: 7659013	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,089	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1011** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JOSHUA D. ISENBERG
JDI PATENT
809 CORPORATE WAY
FREMONT, CA 94539

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OFFICE OF PETITIONS

In re Application of	:	
John F. BLACK, et al	:	
Application No. 11/095,091	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No . SBM-001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 18, 2008.

The request is **APPROVED**.

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

All the attorneys of record have been withdrawn.

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN F. BLACK
2276 ALLEGHENY WAY,
SAN MATEO, CA 94402

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

Date	: 3/12/2009
Patent No.	: 7,473,529 B1
Serial No.	: 11/095098
Inventor(s)	: Porter et al.
Issue Date	: January 6, 2009
Title	: **SYSTEM AND METHOD FOR DETECTING CELLS OR COMPONENTS THEREOF**
Doc./File No.	: **P2180US**

Re: Certificate of Correction

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

Respecting the alleged error(s) in your request, on the title page, under item (75) inventors: The citizenship of an inventor is not capture by the certificate of correction branch for printing on the printed patent. Only the residential address of the inventor(s) is/are captured, city, state and country. No correction is in order here.

In view of the foregoing, your request in this matter is denied.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

LARCHER & CHAO LLP
P.O. BOX 1666
SKOKIE IL 60076

ECW

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OFFICE OF PETITIONS

In re Application of Zagara et al.	:	
Application No. 11/095,101	:	On Application For
Filing Date: March 31, 2005	:	Patent Term Adjustment
Attorney Docket No. 05-277	:	

This is in response to the "Request for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. 1.705 (b)-(d)" filed June 1, 2009. Applicants submit the correct patent term adjustment to be indicated on the patent is eight hundred eighty (880) days, not five hundred ninety (590) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

The required fee of $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) has been charged to petitioner's deposit account.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

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In re Patent of Zagara et al.	:	
Patent No. 7,590,576	:	DECISION ON REQUEST
Issue Date: September 15, 2009	:	FOR RECONSIDERATION OF
Application No. 11/095,101	:	PATENT TERM ADJUSTMENT
Filing Date: March 21, 2005	:	
Attorney Docket No. 05-277	:	

This is a decision on the petition filed on October 7, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the above-identified patent is extended or adjusted by eight hundred eighty (880) days.

The request is **DISMISSED**.

37 C.F.R. § 1.705(d) states, "[A]ny request for reconsideration of the patent term adjustment indicated on the patent ... must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." 37 C.F.R. § 1.705(b)(1) requires the submission of the fee set forth in 37 C.F.R. § 1.18(e). The fee set forth in 37 C.F.R. § 1.18(e) is $200.

The instant application for patent term adjustment was not accompanied by payment of the $200 fee or authorization to charge the fee to a deposit account. Accordingly, the request is dismissed for failure to comply with the requirement to submit the fee under §1.18(e).

Patentees should note the instant decision only addresses the petition filed October 7, 2009. The "Request for Recalculation of Patent Term Adjustment In View of *Wyeth*" filed on February 10, 2010, will be addressed in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Thomas R. Zagara	: DECISION ON REQUEST FOR
Patent Number	: 7590576	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,101	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **809** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 Patent of Thomas R. Zagara et al.	:	DECISION ON REQUEST
Patent No. 7,590,576	:	FOR RECONSIDERATION OF
Issue Date: September 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/095,101	:	AND NOTICE OF INTENT TO
Filing Date: March 31, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 05-277	:	CORRECTION

This is a decision on the petition filed May 19, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred seventy-nine (879) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by eight hundred seventy-nine (879) days is **dismissed**.

As stated in the prior decision mailed April 12, 2010, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. § 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Patentees' assertion the patent term adjustment should be 879 days instead of 809 days is based on an assertion the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 289 days instead of 219 days as calculated by the Office.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Pursuant to 35 U.S.C. § 154(b)(1)(B)(ii), B Delay does not include any time period consumed by appellate review.

Although Patentees excluded the period of time consumed by continued examination when calculating the period of B Delay, Patentees did not exclude the 70-days of appellate review resulting from the Notice of Appeal filed November 6, 2008. Exclusion of the 70-day period of appellate review results in a period of B Delay of 209 days.

In view of the prior discussion, the period of B Delay is 209 days and the patent term adjustment is 809 days.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **eight hundred nine (809)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,590,576 B1
APPLICATION NO.	:	11/095,101
DATED	:	September 15, 2009
INVENTOR(S)	:	Thomas R. Zagara et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 590 days.

Delete the phrase "by 590 days" and insert -- by 809 days--

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

Mail Date: 04/21/2010

Applicant	: Francisco Medina	: DECISION ON REQUEST FOR
Patent Number	: 7658603	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,120	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ATTENTION OF KAREN A. FITZSIMMONS
MERCHANT & GOULD P.C.
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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OFFICE OF PETITIONS

In re Application of :
Todd A. Loeffelholz et al :
Application No. 11/095,132 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 2316.1361USC2 :

This is a decision on the petition, filed April 26, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 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 the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2832 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. _____

Date : April 27, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Todd A. Loeffelholz et al
Application No. :11/095,132
Filed :March 30, 2005

The above-identified application has been assigned Patent No. 7,038,149 and an issue date of May 2, 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 May 2, 2006:

"All reference to Patent No. 7,038,149 to Todd A. Loeffelholz et al of Minnesota for PLUG CONNECTOR FOR CABLE TELEVISION NETWORK AND METHOD OF USE appearing in the Official Gazette of May 2, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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OFFICE OF PETITIONS

In re Application of	:	
Criminisi et al.	:	
Application No. 11/095,138	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 303772.05	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 6, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center 2600 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

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Tom Torpin	: DECISION ON REQUEST FOR
Patent Number	: 7630938	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Patent No. : **7413607**
Ser. No. : **11/095142**
Inventor(s) : **RAKOW, NEAL A.**
Issued : **08/19/2008**
Title : **TEMPLATED SEMICONDUCTOR PARTICLES AND METHODS OF MAKING**
Docket No. : **60726US002**

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.

In regards to the alleged error(s) on the Title Page Item [56] References Cited, the patent is printed in accordance with the IDS filed by the Applicant/Attorney on 4-20-07.

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

A Certificate of Correction will be issued to correct the remaining error(s) noted in your request.

Omega Lewis
For Mary Diggs
Decisions & Certificates
Of Correction Branch
(703)756-1575 or (703) 756-1814

3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL MN 55133-3427

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 04/20/2010

Applicant	: Donald R. Bauman	: DECISION ON REQUEST FOR
Patent Number	: 7583735	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **994** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 05/17/2010

Applicant : Donald R. Bauman
Patent Number : 7583735
Issue Date : 09/01/2009
Application No : 11/095,150
Filed : 03/31/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1036** 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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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Eugene M. Mondrusov	: DECISION ON REQUEST FOR
Patent Number	: 7578052	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

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APR 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Arnold et al.	:	
Patent Number: 7,534,797	:	DECISION ON REQUEST
Issue Date: 05/19/2009	:	FOR RECONSIDERATION OF
Application No. 11/095162	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/31/2005	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
OS-10011	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 6, 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 eighty-nine (989) 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 eighty-nine (989) 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 eighty-nine (989) days**.

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

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,534,797 B2

DATED : **May 19, 2009**

INVENTOR(S) : Arnold 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 669 days.

Delete the phrase "by 669 days" and insert – by 989 days--

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

Mail Date: 04/20/2010

Applicant	: Jeffrey R. Dahn	: DECISION ON REQUEST FOR
Patent Number	: 7648801	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1329** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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APR 2 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Ryan T. Bauer, et al.	:	
Application No. 11/095,192	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. P0020890.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 non-final Office action mailed, May 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 August 6, 2008. The Notice of Abandonment was mailed December 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 an amendment, (2) the petition fee of $1,620, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee submitted with the petition on February 12, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Mark J. Gebhardt**
MUETING, RASSCH & GEBHARDT, P.A.
P.O. Box 581336
Minneapolis, MN 55458-1336

PATENT
Docket No. P0020890.00
(134.03290101)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	BAUER et al.	Group Art Unit:	3766
Serial No.:	11/095,192	Examiner:	Tammie K. Heller
Confirmation No.:	2879		
Filed:	March 31, 2005		
For:	MEDICAL ELECTRICAL LEAD WITH CO-RADIAL MULTI-CONDUCTOR COIL		

PETITION FOR EXTENSION OF TIME

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

Sir:

In accordance with the provisions of 37 C.F.R. §1.136(a), it is respectfully requested that a three-month extension of time be granted in which to respond to the outstanding Office Action mailed May 5, 2008, thereby extending the date on which the period of response is set to expire from August 5, 2008 to November 5, 2008.

Please charge PTO Deposit Account No. 13-4895 in the amount of $1,110 to cover the required extension fee. Please charge any additional fees or credit any over-payment to PTO Deposit Account No. 13-4895.

CERTIFICATE UNDER 37 C.F.R. 1.8:

The undersigned hereby certifies that this paper is being transmitted via the U.S. Patent and Trademark Office electronic filing system in accordance with 37 CFR §1.6(a)(4) to the Patent and Trademark Office addressed to: Mail Stop Petition, Office of Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12th day of February, 2009.

By: Deb Schurmann
Name: Deb Schurmann

12 Feb 2009
Date

Respectfully submitted
By
Mueting, Raasch & Gebhardt, P.A.
P.O. Box 581336
Minneapolis, MN 55458-1336
Phone: (612)305-1220
Facsimile: (612)305-1228
Customer Number 26813

Adjustment Date: 04/23/2009 CKHLOK
02/13/2009 INTERSW 00002407 134895 11095192
02 FC:1253 1110.00 CK

By: Mark J. Gebhardt
Mark J. Gebhardt
Reg. No. 35,518
Direct Dial (612)305-1216

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 04/21/09

2 Serial/Patent # 11/095,192

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		02/12/09	$ 1,110.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,110.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 1 3 -- 4 8 9 5

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension of time unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

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APPROVED: [illegible] DATE: 4/23/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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ONE PLASTICS AVENUE
PITTSFIELD MA 01201-3697

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of :
James Manio Silva et al. :
Application No. 11/095,200 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. **145827-1** :

This is a decision on the petition filed July 15, 2008, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on January 8, 2008, for failure to file a timely response to a Restriction Requirement mailed December 7, 2007, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed June 23, 2008.

The petition fee in the amount of $1540.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed July 15, 2008 will be referred to Technology Center 1614 for further processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[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)).

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RAYMOND R. MOSER JR., ESQ.
MOSER IP LAW GROUP
1040 BROAD STREET
2ND FLOOR
SHREWSBURY NJ 07702

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JUL 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Yoav Z. Hollander, et al.	:	
Application No. 11/095,226	:	DECISION GRANTING PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. VD 0022	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 10, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 12, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2138 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Alexy for
Frances M. 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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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

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NOV 10 2009

OFFICE OF PETITIONS

In re Application	:
Alvin F. Tampoco	:
Application No. 11/095,235	: DECISION ON APPLICATION
Filed: March 31, 2005	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **05-272**	:

This is in response to the REQUEST FOR RECONSIDERATION OF PTA UNDER 37 C.F.R. § 1.705 filed August 26, 2009. Applicant requests that the determination of patent term adjustment be corrected from 430 days to 620 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for

continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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

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

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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

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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Alvin F. Tanpoco	: DECISION ON REQUEST FOR
Patent Number	: 7634437	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,235	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **619** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Leete, John Cumming	:	
Application No. 11/095,238	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 54185/DBP/B600	:	

This is a decision on the petition filed July 18, 2005, requesting that the above-identified application be accorded a filing date of March 30, 2005, rather than the presently accorded date of March 31, 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 30, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of the USPS Pickup Service Statement, which shows Express Mail label No. EV 327883268 US with an illegible date-in. However, applicants also supplied a copy of the USPS Track & Confirm record showing that the package in question was enroute on March 30, 2005, at 5:17 p.m. in Pasadena, CA. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on March 30, 2005.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(c) does not require a petition fee and none has been charged.

This matter is now being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of March 30, 2005, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2800 for examination in due course.

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02-14-09

TO SPE OF : ART UNIT 3747

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/095250 Patent No.: 7270108

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

STEPHEN K. CRONIN
SUPERVISORY PATENT EXAMINER

SPE **Art Unit** 3747

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K&L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH, PA 15222

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Szu-Min Lin et al
Application No. 11/095,251
Filed: March 31, 2005
Attorney Docket No. ASP-5027USNP

This is a decision on the petition filed December 8, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application is abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed July 25, 2008, which set a statutory period for reply of three (3) months. The Request for Continued Examination (RCE) filed with the petition on December 8, 2008 is improper since it was received after the three (3) months statutory period. Accordingly, the above-identified application became abandoned on October 26, 2008.

Since the application is abandoned for failure to submit the Issue fee and Publication fee, payment of there fees are required. With the authorization to charge, the Office is charging the $1510 Issue fee and $300 Publication fee to the petitioner's deposit account.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to Mail Stop Issue Fee, within ONE MONTH from the mail date of this decision.

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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OFFICE OF PETITIONS

K & L GATES LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

In re Application of	:	
Szu-Min Lin et al	:	
Application No. 11/095,251	:	DECISION GRANTING PETITION
Filed: March 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. ASP-5027USNP	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 4, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 8, 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 2856 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/095,256	03/29/2005	3747	1000	SD-8573	2	15	2

CONFIRMATION NO. 3377

CORRECTED FILING RECEIPT

OC000000016675034

021496
KURT C. OLSEN
SANDIA LABS - MAIL STOP 9031
P O BOX 969
LIVERMORE, CA 94551-0969

Date Mailed: 08/02/2005

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)

John E. Dec, Livermore, CA;
Carl-Magnus G. Sjöberg, Livermore, CA;

Power of Attorney: The patent practitioners associated with Customer Number **021496**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/095,256

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Fuel mixture stratification as a method for improving homogeneous charge compression ignition engine operation

Preliminary Class

123

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

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OCT 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
TSAO	:	
Application No. 11/095,311	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 60963-5251-US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 17, 2006.

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

A review of the file record indicates that the power of attorney to SCHWEGMAN, LUNDBERG, WOESNER & KLUTH, P.A. has been revoked by the assignee of the patent application on October 09, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272- 6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: MORGAN, LEWIS & BOCKIUS, LLP
2 Palo Alto SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

cc: GOOGLE INC.
Google Patents
1600 Amphitheatre Parkway
Mountain View, CA 94043

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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Michael Tsao	: DECISION ON REQUEST FOR
Patent Number	: 7610491	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1245** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FELLERS, SNIDER, BLANKENSHIP, BAILEY
& TIPPENS, P.C.
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820

In re Application of: Lubbers, et al.
Application No. 11/095,322
Filed: March 31, 2005
For: DUAL REDUNDANT DATA STORAGE FORMAT AND METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on January 11, 2006.

The Petition is **GRANTED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP §708.02(VIII) have been met.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100, WG 2110
Computer Architecture, Software and Information Security
571-272-3595

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 11,2007

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/095,326 Patent No.: 7256740 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE — 2821 Art Unit

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REED SMITH, LLP
ATTN: PATENT RECORDS DEPT.
599 LEXINGTON AVENUE, 29TH FLOOR
NEW YORK, NY 10022-7650

COPY MAILED
DEC 08 2008

In re Application of	:	
Andrew NOVELLE, et al	:	
Application No. 11/095,329	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. JG-HPAC-5186/Y3074-00001		FROM RECORD
	:	

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 10, 2008.

The request is **NOT APPROVED**.

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

The request cannot be approved because the attorneys of record were not appointed by Customer Number 42109, as indicated. The attorneys were named by appointing each attorney individually.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BIONEUTRAL LABORATORIES CORP.
211 WARREN STREET
NEWARK, NJ 07103

ARG

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20061218

DATE : January 4, 2007

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction on Patent No.: 6,992,726

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:

DAVID OMETZ
SUPERVISORY PATENT EXAMINER

SPE: David Ometz **Art Unit** 2622

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

MAYER & WILLIAMS PC
251 NORTH AVE. WEST
2ND FLOOR
WESTFIELD NJ 07090

MAILED

MAR 12 2009

OFFICE OF PETITIONS

In re Application of :
Freeborg, et al. :
Application No. 11/095,342 : DECISION
Filed/Deposited: 31 March, 2005 :
Attorney Docket No. 50U7028.02 :

This is a decision on the petition filed on 27 December, 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 under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

In the alternative, Petitioner may properly file a petition to the Commissioner under 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner's attention is 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.

Petitioner appears not to satisfy the showing requirements set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

For reference: Petitioners' attentions are directed to the guidance set forth in the Commentary at MPEP §711.03(c)(I)—and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 13 November, 2007, with reply due absent extension of time on or before 13 February, 2008.

On 13 March, 2008, Petitioner filed, *inter alia*, a request and fee for extension of time, and an amendment after final, which Petitioner–as one registered to practice before the Office—knew was not as of right and was not a proper reply[1] if it did not *prima facie* place the application in condition for allowance.

The application went abandoned after midnight 13 March, 2008.

Notably, on 19 May, 2008, more than two months after abandonment and six days after the expiration of the statutory period, the Examiner mailed an Advisory Action, which expressly stated that the after-final amendment "does NOT place the application in condition for allowance ***." ((Emphasis the original.) Nonetheless, in the 19 May, 2008, Advisory Action the Examiner apparently indicated that the amendment would be entered. And on 18 June, 2008 (by then more than three months after abandonment and more than a month after expiration of the statutory period), the Examiner mailed a Communication stating that "Applicant's Remarks of March 13, 2008, will be entered and considered. A new office action will be issued."

The Office mailed a Notice of Abandonment on 19 September, 2008.

On 27 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating as the basis of her averment the history set forth above, and that—in essence—she was awaiting a new Office action from the Examiner.

The problems which Petitioner confronts here include at least the following:

---

[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).)

- Petitioner filed an amendment after final, which, as noted above, Petitioner knew was not as of right and was not a proper reply[2] if it did not *prima facie* place the application in condition for allowance;

- The Examiner did not mail a reply to the after-final before the end of the statutory period;

- Petitioner knew that it was Petitioner's responsibility to maintain pendency—which could be accomplished by filing (before midnight 13 May, 2008, with an appropriate request and fee for extension of time) a Notice of Appeal (with fee) or a request for continued examination (with fee) and a submission pursuant to 37 C.F.R. §1.114—but Petitioner failed to do so;

- Petitioner averred conversations with the Examiner, however, Petitioner knew that:

  —all practice before the Office was (and 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 could be controlling or considered authority for Petitioner's action(s);

- The statutory period is indeed statutory—and is expressly set forth at 35 U.S.C. §133. Notwithstanding any representations otherwise, the Office is not at liberty to waive a provision of statute; and

- Petitioner appears to have ignored the requirement set forth at 37 C.F.R. §1.181 that one seek relief under the rule within two months of the action complained of.

Petitioner's attention is directed to the guidance in the Commentary at MPEP §711.03(c)(I)) generally to satisfy the mandated showings pursuant to 37 C.F.R. §1.181. It does not appear as of this writing that Petitioner has satisfied or is in a position to satisfy the requirements set forth therein.

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[2] 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).)

[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.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[4]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears not to have made the showing required or do so within the time 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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[4] 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 statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

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

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

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

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

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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[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

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.
11/095,342	03/31/2005	John Winston Freeborg	50U7028.02	7116

51518 7590 11/13/2007
MAYER & WILLIAMS PC
251 NORTH AVE. WEST
2ND FLOOR
WESTFIELD, NJ 07090

EXAMINER
MIZRAHI, DIANE D

ART UNIT	PAPER NUMBER
2165	

MAIL DATE	DELIVERY MODE
11/13/2007	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.

Office Action Summary	Application No.	Applicant(s)	
	11/095,342	FREEBORG ET AL.	
	Examiner	Art Unit	
	Diane Mizrahi	2165	

-- 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 04 September 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) 1-8,10-22 and 24-28 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) 1-8,10-22 and 24-28 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 04 September 2007 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

Claims 1-8, 10-22 and 24-28 are pending. Applicant canceled claims 9 and 23.

Response to Arguments

Applicant's arguments filed 09/04/2007 have been fully considered but they are not persuasive. Examiner formally withdraws the objection to the drawings and the 35 USC 101 rejection. The newly submitted drawings of 9/4/2007 are accepted.

Based on Applicant's amendment and the new rejection, this action is made final. See new office action below:

Claim Rejections - 35 USC § 103

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.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8, 10-22 and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (US Publication No. 200200011395 A1 and Davis hereinafter) and further in view of Sharon Flank et al. (US Publication No. 20020188621 A1 and Flank hereinafter).

Regarding Claims 1 and 15, Davis teaches of organizing media files in conjunction with a media authoring application on a computer, comprising: populating a media library [0021][0089] with a plurality of media files [0089]; associating with said at least one of said plurality of media files at least one creation attribute of the media file [0205]; searching said media library, the searching based on the at least one creation attribute [0156] [0157]; and viewing the results found in the searching step in a media authoring application associated with the media library (i.e. view data)[0118][0127].

Davis does not expressly teach wherein the creation attribute is based on usage of the selected file in conjunction with the other files in the media library or other media libraries.....

Flank teaches wherein the creation attribute is based on usage of the selected file in conjunction with the other files in the media library or other media libraries (i.e. Other Ways to Determine Stored File Usage . Clustering involves combining user search queries in such a way that the searches can be analyzed usefully to provide answers to business questions. Clustering has received considerable attention in document information retrieval (IR) and more recently, in video IR as a means of refining retrieval results based on user preferences or profiles, and to characterize the marketplace. The prior art contains many examples of clustering applied in information retrieval systems, but they all apply to search results returned to users rather than search queries submitted by users. In the system according to the invention, we cluster search

queries by topic. We then use that information to adjust the collections of stored files so that the file collections will better meet users' needs)[0089].

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Davis with the teachings of Flank to include the claimed, "wherein the creation attribute is based on usage of the selected file in conjunction with the other files in the media library or other media libraries" with the motivation to provide for a more familiar context for their users and (i.e. such as for example) to allow different individuals to collaborate on materials (Flank, [0002]).

Regarding Claim 2, Davis teaches wherein the populating includes searching a source of files for media files and reporting the results of the search (i.e. reads on database)[0089].

Regarding Claim 3, Davis teaches wherein the populating includes browsing a source of files for media files and recording a user choice of media files [0191].

Regarding Claim 4, Davis teaches associating with said at least one of said plurality of media files a tag, the tag corresponding to an attribute of the media file [0204].

Regarding Claim 5, Davis teaches wherein the searching includes providing a tag tree wherein at least one tag is chosen and the searching automatically occurs based on the chosen at least one tag [0147].

Regarding Claim 6, Davis teaches advanced searching said media library wherein the advanced searching includes providing a list of criteria, enabling a choosing of the criteria by a user, enabling the user to choose selected parameters, or a range of parameters, of the criteria, and performing a search based on the parameters of the criteria (i.e. editing operations)[0135][0152].

Regarding Claim 7, Davis teaches wherein the media library is a new media library (i.e. reads on editing operations) [0135]. Regarding Claim 8, Davis teaches wherein the media library is a reference media library, and wherein the tag is chosen from tags within the reference media library (i.e. reads on marked and uploaded)[0070].

Regarding Claim 10, Davis teaches wherein the usage includes: employment of common media files, preview of the other files in a project containing the selected file or vice-versa, derivative files, files that were rendered to or from each other, files that were chopped to or from each other, files having effects within a predetermined range, files having rendering or quality settings within a predetermined range, or files that fall within a predetermined range of complexity [0135][0157].

Regarding Claim 11, Davis teaches wherein the effects include DSP audio effects [0035].

Regarding Claim 12, Davis teaches wherein the range of complexity is based on the number of transitions in the files [0067].

Regarding 13, Davis teaches naming a plurality of ranges of complexity according to the number of transitions in the files, and wherein the searching said media library includes the step of searching based on the named ranges [0067].

Regarding Claim 14, Davis teaches wherein the searching further comprises searching based on a combination of the tag and on a textual component of the plurality of media files [0151][0174].

Regarding Claims 16-22 and 24-28, the rejection of claims above respectively, are fully incorporated and are similarly rejected along the same rationale.

Remarks

Based on the newly submitted amendment and rejection, Examiner believes that Applicant's remarks have been addressed in the new office action above.

Examiner believes that claims 1-8, 10-22 and 24-28 are not allowable over the prior art of record and the newly added prior art of record cited in this Final Office Action. Examiner asserts that "every limitation positively recited in a claims was given effect in order to determine what the subject matter that the claim defines" In re Wilder, 166 USPQ 545, 548 (CCPA 1970).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Diane D. Mizrahi whose telephone number is 571-272-4079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on (571) 272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 305-3900 for After Final communication.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Diane Mizrahi
Diane.Mizrahi@USPTO.gov
Primary Patent Examiner
Technology Center 2100

November 10, 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Freeborg, et al.	:	
Application No. 11/095,342	:	DECISION
Filed/Deposited: 31 March, 2005	:	
Attorney Docket No. 50U7028.02	:	

This is a decision on the petition filed 12 May, 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 13 November, 2007, with reply due absent extension of time on or before 13 February, 2008.

On 13 March, 2008, Petitioner filed, *inter alia*, a request and fee for extension of time, and an amendment after final, which Petitioner–as one registered to practice before the Office—knew

was not as of right and was not a proper reply[1] if it did not *prima facie* place the application in condition for allowance.

The application went abandoned after midnight 13 March, 2008.

Notably, on 19 May, 2008, more than two months after abandonment and six days after the expiration of the statutory period, the Examiner mailed an Advisory Action, which expressly stated that the after-final amendment "does NOT place the application in condition for allowance ***." ((Emphasis the original.) Nonetheless, in the 19 May, 2008, Advisory Action the Examiner apparently indicated that the amendment would be entered. And on 18 June, 2008 (by then more than three months after abandonment and more than a month after expiration of the statutory period), the Examiner mailed a Communication stating that "Applicant's Remarks of March 13, 2008, will be entered and considered. A new office action will be issued."

The Office mailed a Notice of Abandonment on 19 September, 2008.

On 27 December, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment and indicating as the basis of her averment the history set forth above, and that—in essence—she was awaiting a new Office action from the Examiner. The problems which Petitioner confronted were several. Petitioner filed an amendment after final, which, as noted above, Petitioner knew was not as of right and was not a proper reply[2] if it did not *prima facie* place the application in condition for allowance. The Examiner did not mail a reply to the after-final before the end of the statutory period. Petitioner knew that it was Petitioner's responsibility to maintain pendency—which could be accomplished by filing (before midnight 13 May, 2008, with an appropriate request and fee for extension of time) a Notice of Appeal (with fee) or a request for continued examination (with fee) and a submission pursuant to 37 C.F.R. §1.114—but Petitioner failed to do so. Petitioner averred conversations with the Examiner, however, Petitioner knew that: all practice before the Office was (and 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 could be controlling or considered authority for Petitioner's action(s). The statutory period is indeed statutory—and is expressly set forth at 35 U.S.C. §133. Notwithstanding any representations otherwise, the Office is not at liberty to waive a provision of statute. And Petitioner appeared to have ignored the requirement set forth at 37

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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] 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).)

[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.

C.F.R. §1.181 that one seek relief under the rule within two months of the action complained of. The petition was dismissed on 12 March, 2009.

On 12 May, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a statement of unintentional delay, 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 an amendment.

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.[4]

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).[5]
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.[6]))

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[4] 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).

[5] 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.

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

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 2165 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[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Steven D. Clynes	: DECISION ON REQUEST FOR
Patent Number	: 7577981	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,358	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 04/21/2010

Applicant	: Antonio Juan Martinez Ransom	: DECISION ON REQUEST FOR
Patent Number	: 7580716	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,379	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **947** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PHARMACIA & UPJOHN
7000 Portage Road
KZO-300-104
KALAMAZOO, MI 49001

Mail Date: 04/20/2010

Applicant	: Changquan Sun	: DECISION ON REQUEST FOR
Patent Number	: 7652149	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,381	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/095,409	03/31/2005	1614	565	JAS 03001	8	19	3

CONFIRMATION NO. 3913

UPDATED FILING RECEIPT

OC000000016202304

John A. Shedden
272 Harbor Ridge Drive
Statesville, NC 28677

Date Mailed: 06/06/2005

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

Applicant(s)

Stanley J. Kostka, Cherry Hill, NJ;
Gregor Schuermann, Schwetzingen, GERMANY;

Power of Attorney:

John Shedden–25644

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/559,051 04/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/095,409

Projected Publication Date: 10/06/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Enhancing plant productivity by improving the plant growth medium environment with alkyl ethers of methyl oxirane-oxirane copolymer surfactants

Preliminary Class

514

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

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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 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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John A. Shedden
272 Harbor Ridge Drive
Statesville, NC 28677

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kostka et al. :
Application No. 11/095,409 :
Filed: March 31, 2005 :
Attorney Docket No. JAS 03001 :

This is a decision in response to the paper filed May 9, 2005, and supplemented May 27, 2005, which is being treated as a petition under 37 CFR 1.10(c). The petition requests the application be accorded a filing date of March 31, 2005, rather than March 30, 2005.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application has been accorded a filing date of March 31, 2005.

Petitions under 37 CFR 1.10 do not require a fee and a fee has not been charged.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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INGRASSIA FISHER & LORENZ, P.C. (FS)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

Mail Date: 04/20/2010

Applicant	: Arnold W. Yanof	: DECISION ON REQUEST FOR
Patent Number	: 7580070	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SMART & BIGGAR
P.O. BOX 2999, STATION D
900-55 METCALFE STREET
OTTAWA, ON K1P 5Y6
CANADA

Mail Date: 04/20/2010

Applicant	: Mohamed O. Damen	: DECISION ON REQUEST FOR
Patent Number	: 7583747	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Russel J. Mathews	: DECISION ON REQUEST FOR
Patent Number	: 7642330	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/095,438	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **205** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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In re Application of	:	
James F. Zucherman, et al.	:	
Application No. 11/095,440	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 19433A-004620US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

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

cc: JOHN R. OWEN
COATS & BENNETT, PLLC
1400 CRESCENT GREEN
SUITE 300
CARY, NC 27511

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PATRICK S. YODER
FLETCHER YODER
P.O. BOX 692289
HOUSTON TX 77269-2289

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In re Application of	:	
Manoj Prakash Gokhale	:	
Application No. 11/095,441	:	ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 161081-1/YOD	:	

This is a decision on the petition, filed November 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 September 18, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3748 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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BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES, CA 90025

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In re Application of	:	
Ng, et al.	:	
Application No. 11/095443	:	DECISION ON PETITION
Filed: March 30, 2006	:	TO WITHDRAW
Attorney Docket No. 005306.P125	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 20, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 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: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

In re Patent of Bonnafous et. al.	:	DECISION ON REQUEST
Patent No. 7,618,519	:	FOR RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/095,487	:	AND NOTICE OF INTENT TO
Filing Date: April 1, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 007147.00334	:	CORRECTION

This is a decision on the petition filed on January 19, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand two hundred four (1204) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand two hundred four (1204) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand two hundred four (1204)** days.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO.	:	7,618,519 B2
APPLICATION NO.	:	11/095,487
DATED	:	November 17, 2009
INVENTOR(S)	:	Delphine Bonnafous et al.

DRAFT

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

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 730 days.

Delete the phrase "by 730 days" and insert -- by 1204 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

OCT 12 2005

In re Application of	:	
Guerin D. Rife	:	
Serial No. 11/095,537	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO MAKE SPECIAL
For: WEIGHTING SYSTEM FOR A	:	
PUTTER TYPE GOLF CLUB	:	

Applicant's petition, filed September 16, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

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

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

John L. Welsh
Welsh & Flaxman, LLC
2000 Duke Street, Suite 100
Alexandria, VA 22314

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PATENT & TRADEMARK OFFICE

11/095547

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of	:	**Attn: Certificate of Correction Branch**
Akira FUJISHIMA et al.	:	
Patent No. 7,189,744	:	Atty Docket No. 2005_0434
Issued March 13, 2007	:	
		Confirmation No. 2171
CRYSTALS OF BENZIMIDAZOLE COMPOUNDS		

RESUBMISSION OF PAPERS FILED MAY 16, 2007

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

THE COMMISSIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

Sir:

Applicants filed a Request Under 37 CFR 3.81(b), a Request for Certificate of Correction Under 37 CFR 1.323, a Form-1050 and the necessary fees on May 16, 2007. Applicant have not yet received the Certificate of Correction. Accordingly, Applicants resubmit the papers filed May 16, 2007 for the expedited consideration of the PTO.

Respectfully submitted,

Akira FUJISHIMA et al.

Certificate
MAR 1 7 2008
of Correction

By _____
Amy E. Schmid
Registration No. 55,965
Attorney for Patentees

AES/eo
Washington, D.C.
Telephone (202) 721-8200
Facsimile (202) 721-8250
March 13, 2008

OIPE IAP40
MAR 1 3 2008
PATENT & TRADEMARK OFFICE

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of	:	**Confirmation No. 2171**
Akira FUJISHIMA et al.	:	Atty Docket No. 2005_0434
Patent No. 7,189,744	:	**Attn: Certificate of Correction Branch**
Issued March 13, 2007	:	
CRYSTALS OF BENZIMIDAZOLE COMPOUNDS		

PATENT OFFICE FEE TRANSMITTAL FORM

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

THE COMMISSIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

Sir:

Attached hereto is a check in the amount of $230.00 to cover Patent Office fees relating to filing the following attached papers:

Certificate of Correction $100.00

Request Under 37 C.F.R. 3.81(b) $130.00

A duplicate copy of this paper is being submitted for use in the Accounting Division, Office of Finance.

The Commissioner is authorized to charge any deficiency or to credit any overpayment associated with this communication to Deposit Account No. 23-0975, with the EXCEPTION of deficiencies in fees for multiple dependent claims in new applications.

Respectfully submitted,

Akira FUJISHIMA et al.

By _____
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Patentees

WMC/AES/nrj
WENDEROTH, LIND & PONACK, L.L.P.
2033 K St., N.W., Suite 800
Washington, D.C. 20006-1021
Telephone (202) 721-8200
May 16, 2007

[Check No. _____]

OIPE IAP40
MAR 1 3 2008
PATENT & TRADEMARK OFFICE

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of	:	**Confirmation No. 2171**
Akira FUJISHIMA et al.	:	Attorney Docket No. 2005_0434
Patent No. 7,189,744	:	**Attn: Certificate of Correction Branch**
Issued March 13, 2007		
CRYSTALS OF BENZIMIDAZOLE COMPOUNDS		

THE COMMISSIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

REQUEST UNDER 37 C.F.R. 3.81(b)

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

Sir:

Patentees respectfully request that the Assignee's name on the face of the above-identified patent be corrected to recite "**Takeda Pharmaceutical Company Limited**, Osaka (JP)." rather than "**Takeda Pharmaceutical Company, Limited**, Osaka (JP)".

The application which matured into the above-identified patent is a divisional application of U.S. Application 10/600,640, now U.S. Patent 6,903,122. An assignment was submitted for recordal in the parent application (U.S. Application 10/600,640) on November 1, 2004. Thus, it is evident that the assignment was submitted for recordation prior to the 7,189,744 patent issuing. The Notice of Recordation of Assignment document in the parent application (U.S. Application 10/600, 640) incorrectly includes a comma between the words "Company" and "Limited" in the Assignee's name. Enclosed herewith are copies of the Request for Correction of Notice of Recordation of Assignment Document, together with a marked-up copy of the Notice of Recordation, the cover sheet and the Assignment, as filed today in the parent application to correct this PTO error.

Also submitted herewith is a Request for Certificate of Correction Under 37 CFR 1.323, together with the required fee.

Also enclosed herewith is the required fee of $130.00, as set forth in 37 CFR 1.17(i).

Thus, Patentees respectfully request that the requested change be made to the Assignee's name on the face of the patent.

Respectfully submitted,

Akira FUJISHIMA et al.

By _____
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Patentees

WMC/AES/nrj
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
May 16, 2007

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MAR 1 3 2008
PATENT & TRADEMARK OFFICE

COPY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent of	:	
Akira FUJISHIMA et al.	:	**Confirmation No. 2171**
Patent No. 7,189,744	:	Atty Docket No. 2005_0434
Issued March 13, 2007	:	**Attn: Certificate of Correction Branch**
CRYSTALS OF BENZIMIDAZOLE COMPOUNDS		THE COMMISSIONER IS AUTHORIZED TO CHARGE ANY DEFICIENCY IN THE FEES FOR THIS PAPER TO DEPOSIT ACCOUNT NO. 23-0975

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR 1.323

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

Sir:

In accordance with the provisions of 37 CFR 1.323, it is respectfully requested that a Certificate of Correction issue to correct the following:

On the Front Page

In item (73) Assignee, please replace "**Takeda Pharmaceutical Company, Limited**, Osaka (JP)" with --**Takeda Pharmaceutical Company Limited**, Osaka (JP)--. This error was an inadvertent error by Patentees' attorney in connection with the name of the Assignee as typed on the Issue Fee Transmittal Form filed February 1, 2007.

The application which matured into the above-identified patent is a divisional application of U.S. application 10/600,640, now U.S. Patent 6,903,122. An Assignment was submitted for recordal in the parent application (U.S. 10/600,640) on November 1, 2004. The Notice of Recordation of Assignment incorrectly includes a comma between the words "Company" and "Limited" in the Assignee's name. Thus, a Request for Correction of Notice of Recordation of Assignment Document was filed today in the parent application to correct this PTO error.

Therefore, Patentees respectfully assert that the instant request is proper, and that a Certificate of Correction should be issued to make the indicated change.

A Certificate of Correction is respectfully requested, and the $100.00 fee required by 37 CFR 1.20(a) is enclosed. Form PTO-1050 accompanies this request.

Respectfully submitted,

Akira FUJISHIMA et al.

By _____
Warren M. Cheek, Jr.
Registration No. 33,367
Attorney for Patentees

WMC/AES/nrj
Washington, D.C.
Telephone (202) 721-8200
Facsimile (202) 721-8250
May 16, 2007

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

COPY

PATENT NO	:	7,189,744
DATED	:	March 13, 2007
INVENTOR(S)	:	Akira FUJISHIMA 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 Front Page

In item (73) Assignee, please replace "**Takeda Pharmaceutical Company, Limited**, Osaka (JP)" with --**Takeda Pharmaceutical Company Limited**, Osaka (JP)--.

Wenderoth, Lind & Ponack, L.L.P.
2033 K Street, N. W., Suite 800
Washington, D.C. 20006-1021

PATENT NO. 7,189,744

No. of additional copies

COPY

ATTY DOCKET #: 2005_0434 **Due Date:** [None]
OUR REF: 2005_0434/WMC/00177
Patentee: Akira FUJISHIMA et al.
Patent No.: 7,189,744 **Date Issued:** March 13, 2007
Title: CRYSTALS OF BENZIMIDAZOLE COMPOUNDS

Receipt of the following papers is acknowledged:

1. PTO Fee Transmittal Form (in duplicate)
2. Request Under 37 CFR 3.81(b)
3. Copy of Request for Correction of Notice of Recordation of Assignment Document filed in parent application 10/600,640, now U.S. Patent No. 6,903,122, and copies of Notice of Recordation of Assignment Document "marked-in red", Form PTO-1595 and Assignment document
4. Request for Certificate of Correction Under 37 CFR 1.323 with Form PTO-1050
5. Check in the Amount of $230.00

Date: May 16, 2007 **Attorney:** WMC/AES/nri **[Check No.** 80404]

OIPE IAP97
MAY 16 2007
PATENT & TRADEMARK OFFICE

80404

WENDEROTH, LIND & PONACK, L.L.P.
PATENT ATTORNEYS
2033 K STREET, N.W., SUITE 800
WASHINGTON, D.C. 20006

SUNTRUST
ACH RT 061000104
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05/16/07

PAY TO THE ORDER OF THE COMMISSIONER OF PATENTS AND TRADEMARKS $*$230.00*

DOLLARS

TWO HUNDRED THIRTY AND 00/100 DOLLARS

FUJISHIMA	7,189,744 0177	Issue Fee	2005_0434 WMC	100.00
FUJISHIMA	7,189,744 0177	OTHER PTO - PATENT	2005_0434 WMC	130.00

MEMO

Michael R. Davis MP

AUTHORIZED SIGNATURE

⑈080404⑈ ⑆055002707⑆ 206553080⑈ ⑈0000023000⑈

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CHRISTOPHER GLEMBOCKI
BANNER AND WITCOFF LTD
1001 G ST NW STE 1100
WASHINGTON, DC 20001

COPY MAILED

JUN 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Yasushi Hiroshima	:	
Application No. 11/095,553	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 126527	:	FROM RECORD
	:	

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

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

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

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

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

David Bucel
Petitions Examiner
Office of Petitions

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

cc: Seiko Epson Corporation
Intellectual Property Division
3-3-5 Owa, Suwa-shi
Nagano-Ken 392-8502
Japan

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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A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

COPY MAILED

JUN 23 2005

OFFICE OF PETITIONS

In re Application of
Shailender Chaudhry, Marc Tremblay and Quinn Jacobson
Application No.11/095,643
Filed: March 30, 2005
Attorney Docket No. SUN04-0060
Title of Invention: METHOD AND APPARATUS FOR FACILITATING A FAST RESTART AFTER SPECULATIVE EXECUTION

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed May 23, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Jacobson has refused to join in the filing of the above-identified application. Petitioner has provided evidence of refusal of the application papers.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUL 29 2005

OFFICE OF PETITIONS

A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

In re Application of
Marc Tremblay, Shailender Chaudhry, and Quinn Jacobson
Application No.11/095,644
Filed: March 30, 2005
Attorney Docket No. SUN04-0059
Title of Invention: Facilitating Rapid Progress While Speculatively Executing Code In Scout Mode

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed May 23, 2005.

The petition is GRANTED.

Petitioner has shown that non-signing inventor Jacobson has refused to join in the filing of the above-identified application. Petitioner has provided evidence of refusal of the application papers.

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

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing 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 application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Quinn Jacobson
598 Sunnymount Avenue
Sunnyvale, CA 94087

COPY MAILED

JUL 29 2005

OFFICE OF PETITIONS

In re Application of
Marc Tremblay, Shailender Chaudhry, and
Quinn Jacobson
Application No.11/095,644
Filed: March 30, 2005
Attorney Docket No. SUN04-0059
Title of Invention: Facilitating Rapid Progress
While Speculatively Executing Code In Scout
Mode

LETTER

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 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

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

Charlema R. Grant
Petitions Attorney
Office of Petitions

A. RICHARD PARK, REG. NO. 41241
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS CA 95616

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

JUN 0 6 2008

In re Application of	:	
James F. Zucherman, et al.	:	
Application No. 11/095,680	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 19433A-004610US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOHN R. OWEN
COATS & BENNETT, PLLC
1400 CRESCENT GREEN
SUITE 300
CARY, NC 27511

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

COPY MAILED
JAN 18 2007
OFFICE OF PETITIONS

In re Application of
David C. Allen
Application No. 11/095,705
Filed: March 30, 2005
Attorney Docket No. 56578-309580

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(f), filed December 7, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the present nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 21, 2006. However, the USPTO was unintentionally not notified of this filing within forty-five days subsequent to the filing of the subject application in an eighteen-month publication country. Accordingly, 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 eighteen 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 present petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within forty-five days after the date of filing of such foreign or international application as provided by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of April 26, 2007, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 2854.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/095,705	03/30/2005	David C. Allen	56578-309580

CONFIRMATION NO. 2970

25764
FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

Date Mailed: 01/17/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 04/26/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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1.47(a) STATUS FOR
US APP. SER. NO. 11/095,745

JJGJR:109-04

Paper No: 21

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of
Castiel, et al :
Application No. 09/658,215 : ON PETITION
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

This is a decision on the petition under 37 C.F.R. §1.47(a), filed on 22 December, 2003.

The petition is **GRANTED**.

BACKGROUND

The record reflects that:

- this application was filed on 8 September, 2000, without, *inter alia*, an executed oath or declaration by the named inventors–i.e., it was signed by all named inventors Castiel, et al, save for John E. Draim (Mr. Draim);

- accordingly, the Office mailed a Notice of Missing Parts on 27 October, 2000, and the 6 March, 2001, and 20 September, 2001, petitions seeking status under 37 C.F.R. §1.47 were dismissed by the Office on 9 July, 2001, and 2 October, 2001, respectively;

- although Petitioner failed to timely and properly address the dismissal of 2 October, 2001, on or before Monday, 3 December, 2001–and thus the application was deemed abandoned after midnight 2 December, 2001--the Examiner nonetheless examined the application and mailed a Notice of Allowance on 7 October, 2003;

- during review prior to publication, the abandoned status of the application was discovered by the Office.

- a Communication was mailed by the Office to Petitioner on 21 May, 2004, and indicated that Petitioner had failed to reply timely and properly to the dismissal of 2 October, 2001;

- nonetheless, the 21 May, 2004, petition was dismissed on 16 June, 2004, after Petitioner argued as to some unidentified paper dated 1 September, 2000 (sic)–a date which is not at issue in this regard, and failed to reply properly to the 2 October, 2001;

- Petitioner submitted via FAX on 26 July, 2004, copies of transmittal documents, he filed the instant petition on 19 August, 2004, but despite being reminded of the reply requirement (via a telephone conference on 9 September, 2004) by the Office of Petitions, Petitioner failed to supplement his petition with the required reply–i.e., a grantable petition under 37 C.F.R. §1.47 or a petition evidencing joinder–and, therefore the petition was dismissed on 10 September, 2004;

- on 10 September, 2004, Petitioner filed a petition to revive, which was granted on 25 October, 2004;

- with the instant petition, Petitioner has shown proprietary interest/irreparable harm and that, while all of the co-inventors Castiel et al have signed the oath/declaration, save for the non-signing inventor **Mr. Draim**, who has refused or otherwise failed to join in the filing of the above-identified application after having been presented with the application papers.

Specifically, the declaration/statement/submission of facts of/by Scott C. Harris (Reg. No. 32,030) and Bing Al (Reg. No. 43,312) establish that the non-signing inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond positively to the request that they sign the declaration or in fact sign said declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64 and Petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being forwarded to OIPE for processing as necessary to reflect the instant decision,

and then will be forwarded to Publications Branch to be processed into a patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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JJGJR:109-04

Paper No: 22

JOHN E. DRAIM
9310 TELFER COURT
VIENNA, VA 22182-3438

COPY MAILED

OCT 29 2004

OFFICE OF PETITIONS

In re Application of
Castiel, et al :
Application No. 09/658,215 : COMMUNICATION
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

Dear John E. Draim:

You are named as inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47, ¶a, Rules of Practice in Patent Cases.

Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application.

Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this correspondence may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO CA 92130-2081

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: 20

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SAN DIEGO CA 92130-2081

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OCT 26 2004

OFFICE OF PETITIONS

In re Application of
Castiel, et al :
Application No. 09/658,215 : ON PETITION
Filed: 8 September, 2000 :
Attorney Docket No.: 10636-005001 :

This is a decision on the materials considered as a petition filed on 10 September, 2004, seeking to revive the instant application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

For the reasons set forth below, the petition is **GRANTED**.

BACKGROUND

The record reflects that:

- the Office mailed a Notice of Missing Parts on 27 October, 2000, and the 6 March, 2001, and 20 September, 2001, petitions seeking status under 37 C.F.R. §1.47 were dismissed by the Office on 9 July, 2001, and 2 October, 2001, respectively;

- although Petitioner failed to timely and properly address the dismissal of 2 October, 2001, on or before Monday, 3 December, 2001–and thus the application was deemed abandoned after midnight 2 December, 2001--the Examiner nonetheless examined the application and mailed a Notice of Allowance on 7 October, 2003;

- during review prior to publication, the abandoned status of the application was discovered by the Office.

- a Communication was mailed by the Office to Petitioner on 21 May, 2004, and indicated that Petitioner had failed to reply timely and properly to the dismissal of 2 October, 2001;

- nonetheless, the 21 May, 2004, petition was dismissed on 16 June, 2004, after Petitioner argued as to some unidentified paper dated 1 September, 2000 (sic)–a date which is not at issue in this regard, and failed to reply properly to the 2 October, 2001;

- Petitioner submitted via FAX on 26 July, 2004, copies of transmittal documents, he filed the instant petition on 19 August, 2004, but despite being reminded of the reply requirement (via a telephone conference on 9 September, 2004) by the Office of Petitions, Petitioner failed to supplement his petition with the required reply–i.e., a grantable petition under 37 C.F.R. §1.47 or a petition evidencing joinder–and, therefore the petition was dismissed on 10 September, 2004.

Petitioner now has filed a petition (with fee), made the statement of unintentional delay, and has satisfied the reply requirement of the regulation.

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).[1]

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.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

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[1] 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.

[2] 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.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6] And petitions calling upon the authority of the Commissioner to act, such as that under 37 C.F.R. §1.181,[7] require diligence as to their filing–i.e., the petition must be filed within two months of the action complained of.

Allegations as Unintentional Delay

Petitioner has satisfied the reply requirement under 37 C.F.R. §1.137(b)–that requirement is a grantable petition under 37 C.F.R. §1.47.

---

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] The regulations at 37 C.F.R. §1.181 provide:

§ 1.181 Petition to the Commissioner.

(a) Petition may be taken to the Commissioner:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by orreviewed by the Commissioner; and

(3) To invoke the supervisory authority of the Commissioner in appropriate circumstances. For petitions in interferences, see § 1.644.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Commissioner the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) 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 provided. This two-month period is not extendable.

(g) The Commissioner may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

[24 Fed. Reg. 10332, Dec. 22, 1959; 34 Fed. Reg. 18857, Nov. 26, 1969; paras. (d) and (g), 47 Fed. Reg. 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 Fed. Reg. 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 Fed. Reg. 76756, Dec. 7, 2000, effective Feb. 5, 2001]

CONCLUSION

Petitioner has satisfied the regulatory requirements of 37 C.F.R. §1.137(b), and the petition hereby is **granted**.

The file is being held in the Office of Petitions to address another matter.

Telephone inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Attorney's Docket No.: 10636-005001

OFFICIAL COMMUNICATION FACSIMILE:

OFFICIAL FAX NO: (703) 872-9306

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Number of pages including this page 3

Applicant : David Castiel, et al.
Serial No. : 09/658,215
Filed : September 8, 2000

Art Unit : 2681
Examiner : Kamran Afshar

Title : FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is a Response to Decision on Petition (2 days), faxed this 5th day of October 2004 to the United States Patent and Trademark Office.

Respectfully submitted,

Date: October 5, 2004

Bing Ai
Reg. No. 43,312

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Fax: (858) 678-5099

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Attorney's Docket No.: 10636-005001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David Castiel, et al. Art Unit: 2681
Serial No.: 09/658,215 Examiner: Kamran Afshar
Filed : September 8, 2000
Title : FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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RESPONSE TO DECISION ON PETITION

Prior to receipt of the Decision on Petition mailed September 10, 2004, the undersigned communicated with Senior Attorney John Gillon at the Petitions Office. Pursuant to Senior Attorney John Gillon's suggestion, the undersigned filed two renewed Petitions to Revive on September 10, 2004. The September 10th Petitions should fully satisfy all the requirements set forth in the September 10, 2004 Decision on Petition.

Applicants respectfully ask the Patent Office to consider the renewed petitions filed September 10, 2004 and to revive the application.

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

October 5, 2004
Date of Transmission

S. Gebhart
Signature

S. Gebhart
Name of Person Signing Certificate

Attorney's Docket No.: 10636-005001

Please apply any applicable charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: October 5, 2004

Bing Ai
Reg. No. 43,312

Fish & Richardson P.C.
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San Diego, CA 92130
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Facsimile: (858) 678-5099
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PAGE 3/3 * RCVD AT 10/5/2004 9:29:48 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/0 * DNIS:8729306 * CSID:1 858 678 5099 * DURATION (mm-ss):01-18

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Attorney's Docket No.: 10636-005001

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Applicant : David Castiel, et al.
Serial No. : 09/658,215
Filed : September 8, 2000

Art Unit : 2681
Examiner : Kamran Afshar

Title : FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is a Petition to Revive under 37 CFR 1.47(a), faxed this 10th day of September 2004, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: September 10, 2004

Scott C. Harris
Reg. No. 32,030

/BY
BING AI
REG. NO. 43,312

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Fax: (858) 678-5099

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Attorney's Docket No.: 10636-005001

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : David Castiel, et al. Art Unit : 2681
Serial No.: 09/658,215 Examiner : Kamran Afshar
Filed : September 8, 2000
Title : FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

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Commissioner for Patents
P.O. Box 1450
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RENEWED PETITION UNDER 37 CFR 1.47(a)

In response to the decision dated June 16, 2004 on the prior petition filed on April 2, 2004, Applicants timely filed a petition on August 16, 2004 requesting this application be revived under 37 CFR 1.137(b) on the ground that the application became abandoned unintentionally and be accepted under 37 CFR 1.47(a). In a telephonic conversation with John J. Gillon, Jr. the Senior Attorney of the Office of Petitions on September 9, 2004, Applicants were informed that a separate renewed petition under 37 CFR 1.47(a) must be filed in order to fully comply with the requirements under 37 CFR 1.47(a) for filing when one of the inventors refuses to sign or cannot be reached.

In compliance with the rules, Applicants file this renewed petition under 37 CFR 1.47(a).

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

September 10, 2004
Date of Transmission

S. Gebhart
Signature

S. Gebhart
Name of Person Signing Certificate

Facts in connection with this renewed petition under 37 CFR 1.47(a) are summarized as follows.

(1) To the best knowledge of the undersigned, John Draim, one of the three joint inventors for this application, was provided with a combined power of attorney and declaration and a copy of the application as originally filed on September 8, 2000 after the filing.

(2) John Draim did not sign the declaration required under 37 CFR 1.63 after repeated requests by the attorney of this application, Scott Harris.

(3) On June 21, 2004, Bing Ai, an associate of the attorney Scott Harris, sent to John Draim at his last known residence address a package via the express mail by the U.S. Postal Service that contains a letter to John Draim, a combined power of attorney and declaration, an assignment, and a copy of the originally filed application of this case. The letter to John Draim requested John Draim to review the filed application and sign the enclosed combined power of attorney and declaration and the assignment. John Draim personally received the package on June 25, 2004.

(4) Under 37 CFR 1.47(a), a copy of the delivery receipt for the aforementioned package from the United States Postal Service dated June 25, 2004, a copy of the original express mail label, a copy of the tracking confirmation and a copy of the letter to John Draim dated June 21, 2004 are attached herewith to show that John Draim was presented with and in fact received the originally filed application which included the filed specification, the filed claims, and the filed drawings.

(5) As of today, September 10, 2004, the combined power of attorney and declaration in the above package received by mailed to John Draim on June 25, 2004 has not been returned to the

PAGE 3/9 * RCVD AT 9/10/2004 6:24:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729306 * CSID:1 858 678 5099 * DURATION (mm-ss):03-22

undersigned with the requested signature by John Draim. Therefore, it is respectfully submitted that the facts above sufficiently support that the undersigned made diligent efforts in communicating with John Draim regarding his declaration for this application and that John Draim, once again, refused to sign the combined power attorney and declaration he received on June 25, 2004.

(6) The last known address for John Draim is his residence address at

9310 Telfer Court
Vienna, VA 22182-3438.

In view of the above facts and the evidence attached herewith, Applicants respectfully request that this application be accepted under 37 CFR 1.47(a). One of the three joint inventors, John Draim, has refused to join in the application. The declaration on record is signed by the two signing inventors, while the name of the non-signing inventor, John Draim, is left blank. The undersigned understands that under patent office rules, this is sufficient to indicate that the signing inventors are signing on behalf of the other one.

Accordingly, the requirements for the petition under 37 CFR 1.47(a) have been met and the petition should be granted.

Applicants authorize the Patent Office to charge a petition fee of $130 under 37 CFR 1.17(h) for this renewed petition under

PAGE 4/9 * RCVD AT 9/10/2004 6:24:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729306 * CSID:1 858 678 5099 * DURATION (mm-ss):03-22

Attorney's Docket No.: 10636-005001

37 CFR 1.47(a) and other applicable charges or credits to deposit account No. 06-1050.

Respectfully submitted,

Date: September 10, 2004

Scott C. Harris
Reg. No. 32,030

/BY
BING AI
REG. NO. 43,312

Fish & Richardson P.C.
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PAGE 5/9 * RCVD AT 9/10/2004 6:24:14 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/1 * DNIS:8729306 * CSID:1 858 678 5099 * DURATION (mm-ss):03-22

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Signature of Recipient: Delivery Section

John Draim

Address of Recipient: 9310 Telfer Ct. 22182

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

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San Diego, CA 92130

10636-005001 (BXA)

TO: (PLEASE PRINT) PHONE ( )

John E. Draim
9310 Telfer Court
Vienna, VA 22182-3438

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- ARRIVAL AT UNIT, June 22, 2004, 10:18 am, VIENNA, VA 22180
- ENROUTE, June 21, 2004, 7:46 pm, SAN DIEGO, CA 92137
- ACCEPTANCE, June 21, 2004, 7:23 pm, SAN DIEGO, CA 92110

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Web Site
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Frederick P. Fish
1855-1930

W.K. Richardson
1859-1951

VIA EXPRESS MAIL ~~& CERTIFIED MAIL~~

EV367428593US 7003 2260 0007 5998 3340

June 21, 2004

John E. Draim
9310 Telfer Court
Vienna, VA 22182-3438

BOSTON
DALLAS
DELAWARE
NEW YORK
SAN DIEGO
SILICON VALLEY
TWIN CITIES
WASHINGTON, DC

Re: FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

Applicant:	David Castiel, et al.
Application No.:	09/658,215
Filing Date:	September 8, 2000
Country:	United States
Our Ref.:	10636-005001

Dear Mr. Draim:

We understand that you previously have received a copy of the filed application for this case. In addition, the Combined Declaration and Power of Attorney along with the Assignment document for the above referenced case was sent to you on September 28, 2001. However, we have not received the signed documents from you.

Enclosed please find a copy of the application as filed and another set of the formal papers (Combined Declaration and Power of Attorney and Assignment) for your review and signature. Please review and return these documents to our office as soon as possible for a timely filing with the US Patent and Trademark Office.

If you have any questions feel free to contact me.

Very truly yours,

Bing Ai

BXA/rpi

10407522.doc

EV367428593US

OIPE IAP37
SEP 16 2005
PATENT & TRADEMARK OFFICE

PTO/SB/96 (08-03)
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: VIRTUAL GEOSATELLITE, LLC

Application No./Patent No.: 09/658,215 Filed/Issue Date: 9-8-2000

Entitled: FIXED SATELLITE CONSTELLATION SYSTEM EMPLOYING NON-GEOSTATIONARY SATELLITES IN SUB-GEOSYNCHRONOUS ELLIPTICAL ORBITS WITH COMMON GROUND TRACKS

VIRTUAL GEOSATELLITE LLC, a DELAWARE CORPORATION
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. [X] 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. [X] 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 011597, Frame 0148, or for which a copy thereof is attached.

OR

B. [ ] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

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.

[ ] Copies of assignments or other documents in the chain of title are attached.
[NOTE: A separate copy (*i.e.*, the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded 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.

20 April 2005	David Castiel
Date	Typed or printed name
202-256-5788	
Telephone number	Signature
	President, Virtual Geosatellite, LLC
	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 1.14. 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.

OIPE IAP37
SEP 16 2005
PATENT & TRADEMARK OFFICE

PTO/SB/82 (09-04)
Approved for use through 11/30/2005. OMB 0651-0035
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.

REVOCATION OF POWER OF ATTORNEY WITH NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/095,745
Filing Date	3-30-2005
First Named Inventor	David Castiel et al.
Art Unit	n/a
Examiner Name	n/a
Attorney Docket Number	ELLP.P021.B

I hereby revoke all previous powers of attorney given in the above-identified application.

☐ A Power of Attorney is submitted herewith.

OR

☑ I hereby appoint the practitioners associated with the Customer Number: 42389

☑ Please change the correspondence address for the above-identified application to:

☑ The address associated with Customer Number: 42389

OR

☐ Firm *or* Individual Name					
Address					
City		State		Zip	
Country					
Telephone		Fax			

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)

SIGNATURE of Applicant or Assignee of Record

Signature			
Name	David Castiel		
Date	20 April 2005	Telephone	202-256-5788

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 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 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.

OIPE IAP37
SEP 16 2005
PATENT & TRADEMARK OFFICE

Express Mail Label Express Mail No. ED944194300US I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as Express Mail ED944194300US in an envelope addressed to: Mail Stop: Missing Parts, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450

Date: 15 September 2005 By: _____

David Bogart Dort

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	David CASTIEL et al	EXAMINER:	N/A
APPLICATION NO.:	11/095,745	ART UNIT:	N/A
FILED:	30 March 2005	CONF. NO:	N/A
For: **Fixed Satellite Constellation System Employing Non-Geostationary Satellites in Sub-Geosynchronous Elliptical Orbits with Common Ground Tracks**		**ATTY DOCKET: ELLP.P021.B**	

PRELIMINARY AMENDMENT

Box Missing Parts
Commissioner for Patents
Box 1450
Alexandria, VA 22313

Dear Examiner:

Please enter the following amendment before performing substantive examination of the above-referenced Application. The Changes to the Specification begin on page 2, and the remarks begin on page 6.

Please amend the following paragraph [0001], at page 1, line 5:

[0001] This Application is a continuation of and claims priority under 35 USC §120 to US Application Serial No. 09/658,215, entitled **"Fixed Satellite Constellation System Employing Non-Geostationary Satellites in Sub-Geosynchronous Elliptical Orbits with Common Ground Tracks"** by David Castiel et. al. and filed in the USPTO on September 8, 2000 which claims benefit under 35 USC §119(e) of US Provisional Application No. 60/153,289, filed September 10, 1999.

Please add the following two drawing pages to the specification.

OIPE IAP37
SEP 16 2005
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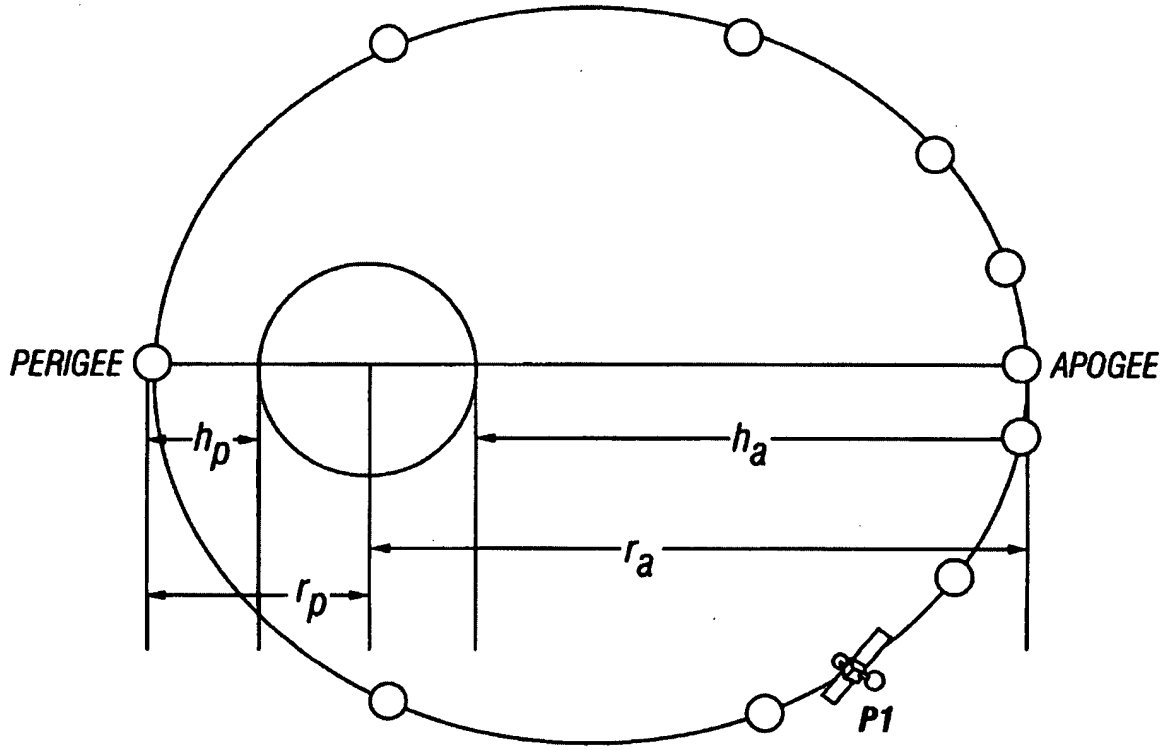

FIG. 3

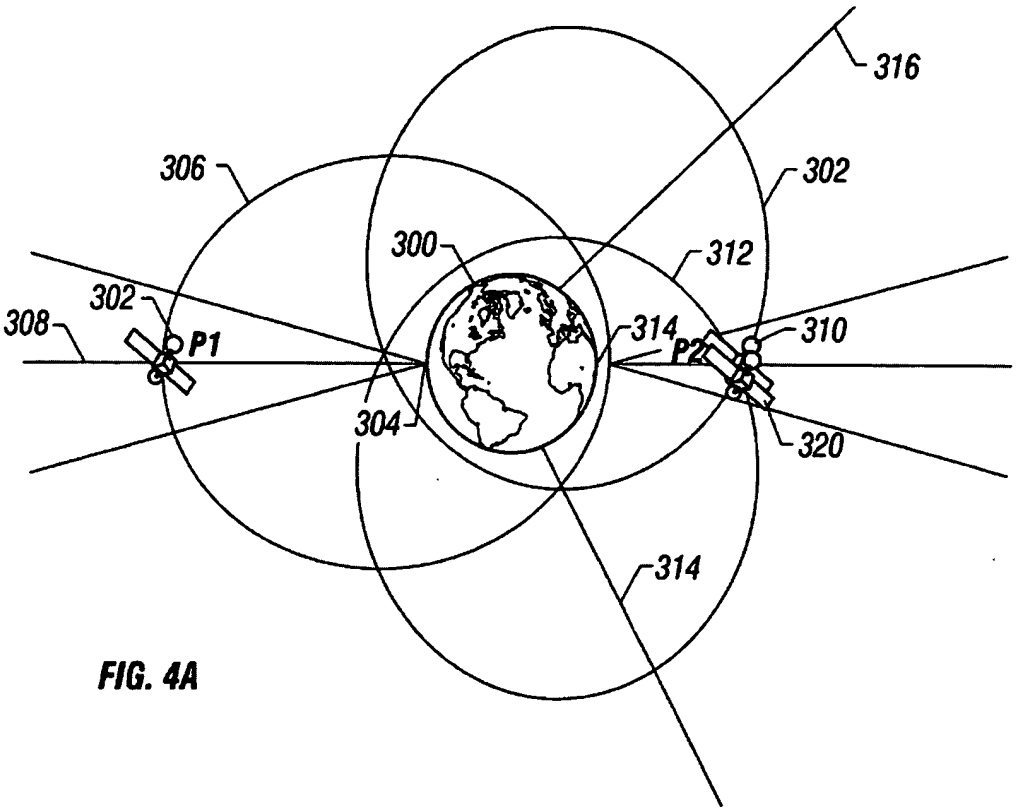

FIG. 4A

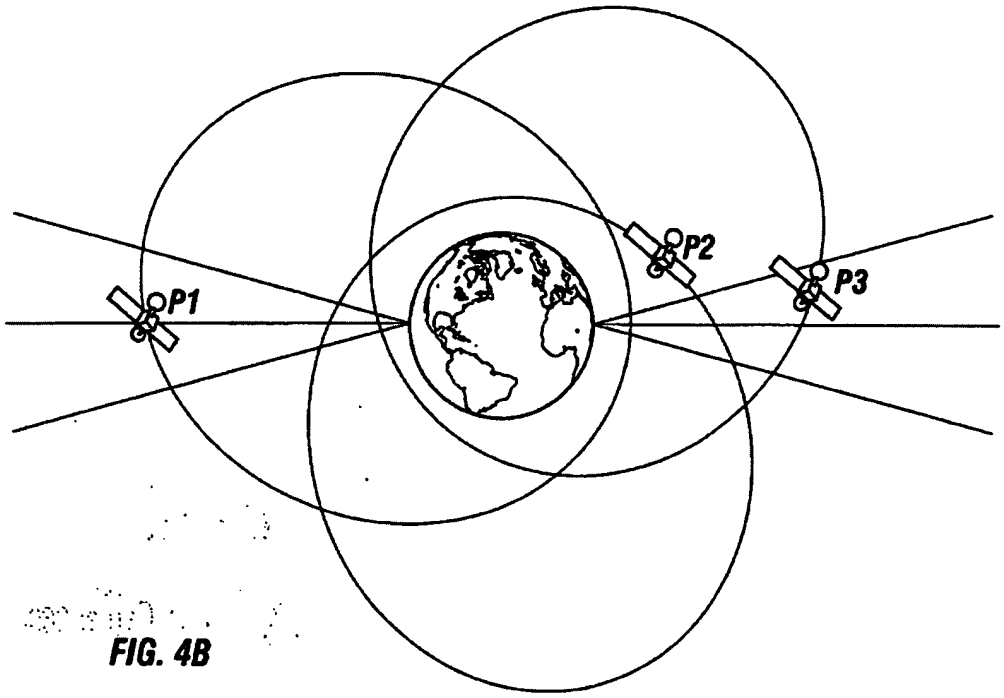

FIG. 4B

OIPE IAP37
SEP 16 2005
PATENT & TRADEMARK OFFICE

CONCLUSION

Paragraph **[0001]** has been amended to reflect proper priority under 35 USC §120. Drawings 3 and 4A and 4B have been submitted in the present application and were inadvertently omitted from the original filing. However, because the present application is a continuation of US Application Serial No. 09/658,215, currently pending and US Application 09/658,215 was properly incorporated by reference in the transmittal papers upon the filing of the present application, no new matter has been added and the drawings must be accepted. *See MPEP 201.06(c)(IV), 608.01(p)(I).*

Respectfully Submitted,
DORT PARTNERS IP PLLC

#50 213

David Bogart Dort
Reg. No. 50,213

Washington, DC
September 15, 2005
Customer No. 42389
800-370-9397

OIPE IAP37
SEP 16 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:	David CASTIEL et al	EXAMINER:	N/A
APPLICATION NO.:	11/095,745	ART UNIT:	N/A
FILED:	30 March 2005	CONF. NO:	N/A

For: **Fixed Satellite Constellation System Employing Non-Geostationary Satellites in Sub-Geosynchronous Elliptical Orbits with Common Ground Tracks**

ATTY DOCKET: ELLP.P021.B

Notice of Filing of Previous Oath or Declaration in a Subsequent Continuation/Divisional Application

MPEP 602.05(a)

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

Please take notice that the above-referenced Application is a continuation claiming priority under 35 USC §120 to US Application Serial No. 09/658,215, filed September 8, 2000 and currently pending. Copies of the executed declaration and decision grating status under 37 CFR 1.47(a) in parent US Application Serial No. 09/658,215 are submitted in the present application in response to the Notice of Missing Parts mailed July 11, 2005. The declaration and the decision granting status under 37 CFR 1.47(a) have been labeled with the above-referenced Patent Application serial number.

Respectfully submitted,
DORT CLOSE IP PLLC

Date: 05-14-05

#50,213
David Bogart Dort
Registration No. 50,213

Correspondence Address:
Customer No. 42389

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Ballard Spahr LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

MAILED

MAY 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Samsky, et al.	:	
Application No. 11/095,749	:	NOTICE
Filed: March 31, 2005	:	
Attorney Docket No. 03286.0003U1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 24, 2010.

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) 272-3230.

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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Alexandria, VA 22313-1450
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OCT 16 2007

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of :	:
Theron Roundy	:
Serial No.: 11/095,751	: PETITION DECISION
Filed: March 31, 2005	:
Attorney Docket No.: INBRED CORN LINE GH05-602	

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on January 4, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
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

JAN 16 2009

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of:	
Theron Roundy	: PETITION DECISION
Serial No.: 11/095,751	
Filed: March 31, 2005	
Attorney Docket No.: **INBRED CORN LINE GH05-602**	

This is in response to the renewed petition under 37 CFR § 1.59(b), filed January 12, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on January 4, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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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PATE PIERCE & BAIRD
550 PARKSIDE TOWER
215 SOUTH STATE STREET
SALT LAKE CITY, UT 84111

COPY MAILED

MAR 2 9 2007

OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
C. Robert Ripplinger	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 11/095,754	: REQUEST FOR CERTIFICATE OF
Filed: March 31, 2005	: CORRECTION
Attorney Docket No. 2409.2.1.5	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 19, 2006, seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application Nos. 09/774,389, filed January 29, 2001; 09/434,609, filed November 5, 1999; and 09/023,318, filed February 13, 1998, as set forth in the concurrently filed amendment.

The petition is **granted**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3654 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/095,754	03/31/2005	3654	565	2409.2.1.5	20	3

CONFIRMATION NO. 2493

CORRECTED FILING RECEIPT

OC000000023151584

28049
PATE PIERCE & BAIRD
215 SOUTH STATE STREET, SUITE 550
PARKSIDE TOWER
SALT LAKE CITY, UT 84111

Date Mailed: 03/28/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

C. Robert Ripplinger, Millville, UT;

Power of Attorney:

A Pate--36234
Gary Pierce--38019
Hal Baird--42284

Domestic Priority data as claimed by applicant

This application is a CON of 10/617,126 07/10/2003 PAT 6,874,726
which is a CON of 09/774,389 01/29/2001 PAT 6,598,825
which is a CIP of 09/434,609 11/05/1999 PAT 6,179,245
which is a DIV of 09/023,318 02/13/1998 PAT 6,003,807

Foreign Applications

If Required, Foreign Filing License Granted: 04/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/095,754

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Corrugated flanges for spools and reels

Preliminary Class

242

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 04/21/2010

Applicant	: Lutz Raddatz	: DECISION ON REQUEST FOR
Patent Number	: 7593648	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **931** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

Mail Date: 05/18/2010

Applicant : Lutz Raddatz
Patent Number : 7593648
Issue Date : 09/22/2009
Application No: 11/095,767
Filed : 03/31/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1000** 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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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 04/20/2010

Applicant	: David J. Conyers	: DECISION ON REQUEST FOR
Patent Number	: 7593450	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,788	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **980** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS, MN 55439

Mail Date: 05/17/2010

Applicant	: David J. Conyers	: NOTICE CONCERNING IMPROPER
Patent Number	: 7593450	: CALCULATION OF PATENT TERM
Issue Date	: 09/22/2009	: ADJUSTMENT BASED UPON USPTO
Application No	: 11/095,788	: IMPROPERLY MEASURING REDUCTION
Filed	: 03/31/2005	: 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 **1020** 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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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 05/10/2010

Applicant	: Firas N. Abughazaleh	: DECISION ON REQUEST FOR
Patent Number	: 7619298	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/095,812	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **424** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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XILINX, INC.
ATTN: LEGAL DEPARTMENT
2100 LOGIC DRIVE
SAN JOSE, CA 95124

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OFFICE OF PETITIONS

In re Application of
Deepak Kumar Nayak et al
Application No. 11/095,814
Filed: March 31, 2005
Attorney Docket No. X-1935 US

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed September 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 5, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2826 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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150 BROADWAY
SUITE 702
NEW YORK NY 10038

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Rajith Tharanga Elvitigala	:	
Application No. 11/095,824	:	DECISION REFUSING STATUS
Filed: March 31, 2005	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. 40151	:	

This is in response to the petitions under 37 C.F.R. § 1.47(b), filed August 29, 2005.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 28, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. The petition was timely filed because applicant purchased a two month extension of time and because August 28, 2005 fell on a Sunday. See 37 C.F.R. 1.7(a).

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 409.03(b).

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FAY KAPLUN & MARCIN LLP
150 BROADWAY
SUITE 702
NEW YORK NY 10038

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OCT 0 7 2005

OFFICE OF PETITIONS

In re Application of Rajith Tharanga Elvitigala Application No. 11/095,824 Filed: March 31, 2005 Attorney Docket No. 40151	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petitions under 37 C.F.R. § 1.47(b), filed August 29, 2005.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 28, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. The petition was timely filed because applicant purchased a two month extension of time and because August 28, 2005 fell on a Sunday. See 37 C.F.R. 1.7(a).

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[1] See MPEP 409.03(b).

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NEW YORK NY 10038

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OFFICE OF PETITIONS

In re Application of Rajith Tharanga Elvitigala Application No. 11/095,824 Filed: March 31, 2005 Attorney Docket No. 40151	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petitions under 37 C.F.R. § 1.47(b), filed October 20, 2005.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 28, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicant filed a petition under 37 C.F.R. § 1.47(b) on August 29, 2005, and paid both the petition fee and the surcharge for late filing of the declaration. The petition was timely filed because applicant purchased a two month extension of time and because August 28, 2005 fell on a Sunday. See 37 C.F.R. § 1.7(a). However, the petition was dismissed in a decision mailed on October 7, 2005. Rule 47 applicant did not submit a proper declaration in compliance with 37 C.F.R. § 1.63.

With the instant petition, Rule 47 applicant has submitted a declaration executed by attorney Oleg F. Kaplun.

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses

to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. **Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.**[1]

Rule 47 applicant has not submitted proof of attorney Kaplun's authority to sign the declaration on behalf of the assignee. Such proof should be in the form of a statement signed by the appropriate corporate officer, or Kaplun can simply state that he is authorized to sign on behalf of the corporation.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 409.03(b).

[2] See MPEP 409.03(b).

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DEC 05 2005

OFFICE OF PETITIONS

In re Application of Rajith Tharanga Elvitigala Application No. 11/095,824 Filed: March 31, 2005 Attorney Docket No. 40151	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petitions under 37 C.F.R. § 1.47(b), filed October 20, 2005.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 28, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicant filed a petition under 37 C.F.R. § 1.47(b) on August 29, 2005, and paid both the petition fee and the surcharge for late filing of the declaration. The petition was timely filed because applicant purchased a two month extension of time and because August 28, 2005 fell on a Sunday. See 37 C.F.R. § 1.7(a). However, the petition was dismissed in a decision mailed on October 7, 2005. Rule 47 applicant did not submit a proper declaration in compliance with 37 C.F.R. § 1.63.

With the instant petition, Rule 47 applicant has submitted a declaration executed by attorney Oleg F. Kaplun.

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses

to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), Rule 47 applicant has not submitted a proper declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. **Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.**[1]

Rule 47 applicant has not submitted proof of attorney Kaplun's authority to sign the declaration on behalf of the assignee. Such proof should be in the form of a statement signed by the appropriate corporate officer, or Kaplun can simply state that he is authorized to sign on behalf of the corporation.[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 409.03(b).

[2] See MPEP 409.03(b).

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P.O. Box 1450
Alexandria, VA 22313-1450
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FAY KAPLUN & MARCIN LLP
150 BROADWAY
SUITE 702
NEW YORK NY 10038

COPY MAILED

JAN 12 2006

OFFICE OF PETITIONS

In re Application of Rajith Tharanga Elvitigala Application No. 11/095,824 Filed: March 31, 2005 Attorney Docket No. 40151	: : : : :	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 C.F.R. § 1.47(b), filed December 14, 2005.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 28, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration and a surcharge for its late filing.

In reply, applicant filed a petition under 37 C.F.R. § 1.47(b) on August 29, 2005, and paid both the petition fee and the surcharge for late filing of the declaration. The petition was timely filed because applicant purchased a two month extension of time and because August 28, 2005 fell on a Sunday. See 37 C.F.R. § 1.7(a). However, the petition was dismissed in a decision mailed on October 7, 2005. Rule 47 applicant did not submit a proper declaration in compliance with 37 C.F.R. § 1.63. In a renewed petition filed on October 20, 2005, petitioner submitted a declaration signed by attorney Oleg F. Kaplun on behalf of the assignee. However, the petition did not include either proof of Kaplun's authority to sign on behalf of the assignee or a statement that he was authorized to sign.[1] Accordingly, the petition was dismissed in a decision mailed on December 5, 2005.

---

[1] See MPEP 409.03(b).

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage.

With the instant petition, Rule 47 applicant has submitted a statement by Kaplun that he is authorized to sign the declaration for the non-signing inventor on behalf of the assignee. The other requirements for a grantable petition under Rule 47 were satisfied with the previously filed petitions.

This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), the 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.

As no petition fee is required for a renewed petition, no petition fee has been charged.

The matter is being forwarded to Group Art Unit 2635 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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RAJITH THARANGA ELVITIGALA
342 KANANWILA
HORANA
SRI LANKA

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JAN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Rajith Tharanga Elvitigala	:	
Application No. 11/095,824	:	
Filed: March 31, 2005	:	
Title: Dynamic Keypad	:	LETTER

Dear Rajith Tharanga Elvitigala:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Oleg F. Kaplun
Fay Kaplun & Marcin LLP
150 Broadway, Suite 702
New York, NY 10038
212-619-6000

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

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Gilbert Neiger	: DECISION ON REQUEST FOR
Patent Number	: 7581219	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,855	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **724** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WOMBLE CARYLE SANDRIDGE & RICE PLLC
P O BOX 7037
ATLANTA, GA 30357-0037

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:
Richard L. Campbell et al	:DECISION DISMISSING PETITION
Application No. 11/095,892	:FOR SUSPENSION OF RULE
Filed: March 31, 2005	:
Attorney Docket No. W3688-1040.1	:

This is a decision on the petition filed on June 23, 2005, which is being treated as a petition requesting that the requirement of 37 CFR 1.213(a)(1) be waived or suspended pursuant to 37 CFR 1.183 in order for the Office to accept a nonpublication request that was not filed with the above-identified application.

The petition is dismissed.

Petitioner states that the application papers were filed by Express Mail on March 31, 2005, but that the Request for Nonpublication was inadvertently omitted from the package which had already been deposited. Upon discovering the inadvertent omission of the nonpublication request from the package, petitioner states that, on the same day as the filing of the application, a Request for Nonpublication was deposited by Express Mail. On October 5, 2005, petitioner submitted a copy of Express Mail label number EL 983775964 US showing a "date-in" of March 31, 2005, as well as a USPS Express Mail receipt stamp also dated March 31, 2005. This same Express Mail label number appears on the copy of the Express Mail Certificate for the Request for Nonpublication, which references the request for nonpublication. A copy of the Request for Nonpublication also accompanied the October 5, 2005 communication.[1] In view of the evidence submitted, petitioner requests that the U.S. Patent and Trademark Office (USPTO) accept the Request for Nonpublication as properly filed on March 31, 2005 (albeit in separate Express Mail packages).

37 CFR 1.183 provides that, in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. 37 CFR 1.213 requires that a nonpublication request must be submitted with the application upon filing. The record is clear that the nonpublication request was not among the application papers upon filing

[1] The original request for nonpublication was not found among the application papers for this file.

in the USPTO. Petitioner states that the nonpublication request was inadvertently omitted from the application papers. Therefore, the petitioner did not file a nonpublication request in compliance with the requirement under 37 CFR 1.213. Petitioner's desire to maintain the application in confidentiality until a patent is granted is not an extraordinary situation in which justice requires a waiver of any requirement of the rules of practice. Accordingly, the requirements of 37 CFR 1.213 are not waived.

The projected publication date of this application will be determined upon completion of the pre-examination processing of this application.

If applicant desires to avoid publication of the above-identified application, he may file a continuation application under 37 CFR 1.53(b) claiming benefit to this application under 35 U.S.C. § 120 and 37 CFR 1.78 with a nonpublication request and, thereafter, abandon the application by filing a petition under 37 CFR 1.138(c) for express abandonment to avoid publication, including a petition fee ($130.00). This petition should be mailed to Box PGPUB-ABD or fax to the Pre-Grant Publication Division at (703) 305-8568. For questions relating to the publication of patent applications, call 703-605-4283.

A fee of $400 has been assessed for the petition under 37 CFR 1.183 and will be charged to petitioner's deposit account as authorized.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing and for issuance of a Filing Receipt which sets forth the projected publication date of this application.

Telephone inquiries regarding this communication should be directed to the undersigned at 571-272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

Conferree: Joni Chang

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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OFFICE OF PETITIONS

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.
20333 SH 249 6th Floor
HOUSTON TX 77070

In re Patent No. 7,646,876	: DECISION ON REQUEST FOR
Chu et al.	: RECONSIDERATION OF
Issue Date: January 12, 2010	: PATENT TERM ADJUSTMENT
Application No. 11/095,900	: AND
Filed: March 8, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 07039-508001	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 18, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred and ninety-six (1296) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred and ninety-six (1296) 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 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 two hundred and ninety-six (1296) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Day : Wednesday

PALM INTRANET

Date: 6/30/2010
Time: 12:39:07

PTA Calculations for Application: 11/095900			
Application Filing Date:	03/30/2005	PTO Delay (PTO):	939
Issue Date of Patent:	01/12/2010	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	27
Post-Issue Petitions:	0	Total PTA (days):	1296
PTO Delay Adjustment:	384		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	06/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	384		
45.5	12/23/2009	PTA 36 MONTHS			
45	01/12/2010	PATENT ISSUE DATE USED IN PTA CALCULATION			
44	12/15/2009	EXPORT TO FINAL DATA CAPTURE			
43	12/10/2009	DISPATCH TO FDC			
42	12/02/2009	RESPONSE TO REASONS FOR ALLOWANCE			
41	12/08/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
40	12/02/2009	ISSUE FEE PAYMENT VERIFIED			
39	12/02/2009	ISSUE FEE PAYMENT RECEIVED			
38	09/28/2009	FINISHED INITIAL DATA CAPTURE			
37	09/08/2009	EXPORT TO INITIAL DATA CAPTURE			
35	09/04/2009	MAIL NOTICE OF ALLOWANCE			
34	09/03/2009	ISSUE REVISION COMPLETED			
33	09/03/2009	EXAMINER'S AMENDMENT COMMUNICATION			
32	08/27/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
31	08/27/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
30	08/27/2009	DOCUMENT VERIFICATION			
29	08/25/2009	NOTICE OF ALLOWABILITY			
26	07/30/2009	DATE FORWARDED TO EXAMINER			
25	07/29/2009	AMENDMENT AFTER FINAL REJECTION			
24	05/20/2009	MAIL FINAL REJECTION (PTOL - 326)			
23	05/20/2009	FINAL REJECTION			
22	04/20/2009	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
21	05/06/2009	DATE FORWARDED TO EXAMINER			
20	04/20/2009	RESPONSE AFTER NON-FINAL ACTION		27	16
19	04/20/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
18	04/20/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
17	04/20/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	12/24/2008	MAIL NON-FINAL REJECTION	939		-1
15	12/22/2008	NON-FINAL REJECTION			
14	12/17/2008	CASE DOCKETED TO EXAMINER IN GAU			
13	10/15/2008	CASE DOCKETED TO EXAMINER IN GAU			
12	06/02/2008	CASE DOCKETED TO EXAMINER IN GAU			
11	05/22/2008	CASE DOCKETED TO EXAMINER IN GAU			
10	06/27/2007	CASE DOCKETED TO EXAMINER IN GAU			
9	03/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
8	02/22/2006	CASE DOCKETED TO EXAMINER IN GAU			
7	06/19/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
6	06/19/2005	CASE DOCKETED TO EXAMINER IN GAU			
5	04/27/2005	APPLICATION DISPATCHED FROM OIPE			
4	04/27/2005	APPLICATION IS NOW COMPLETE			
3	04/19/2005	CLEARED BY OIPE CSR			
2	04/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/30/2005	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.

Back to OASIS | Home page

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,646,876 B2

DATED : Jan. 12, 2010 **DRAFT**

INVENTOR(S) : Chu 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 912 days

Delete the phrase "by 912 days" and insert – by 1296 days--

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WOMBLE CARYLE SANDRIDGE & RICE PLLC
P O BOX 7037
ATLANTA, GA 30357-0037

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DEC 14 2005

OFFICE OF PETITIONS

In re Application of	:
Kevin Slane et al	:DECISION DISMISSING PETITION
Application No. 11/095,913	:FOR SUSPENSION OF RULE
Filed: March 31, 2005	:
Attorney Docket No. W3688-1030.1	:

This is a decision on the petition filed June 27, 2005, which is being treated as a petition requesting that the requirement of 37 CFR 1.213(a)(1) be waived or suspended pursuant to 37 CFR 1.183 in order for the Office to accept a nonpublication request that was not filed with the above-identified application.

The petition is dismissed.

Petitioner states that the application papers were filed by Express Mail on March 31, 2005, but that the Request for Nonpublication was inadvertently omitted from the package which had already been deposited. Upon discovering the inadvertent omission of the nonpublication request from the package, petitioner states that, on the same day as the filing of the application, a Request for Nonpublication was deposited by Express Mail.[1] Therefore, petitioner requests that the U.S. Patent and Trademark Office (USPTO) accept the Request for Nonpublication as properly filed on March 31, 2005 (albeit in separate Express Mail packages).

37 CFR 1.183 provides that, in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. 37 CFR 1.213 requires that a nonpublication request must be submitted with the application upon filing. The record is clear that the nonpublication request was not among the application papers upon filing in the USPTO. Petitioner admits that the nonpublication request was inadvertently omitted from the application papers. Therefore, the petitioner did not file a nonpublication request in compliance with the requirement under 37 CFR 1.213. Petitioner's desire to maintain the application in confidentiality until a patent is granted is not an extraordinary situation in which justice requires a waiver of any requirement of the rules of practice. Accordingly, the requirements of 37 CFR 1.213 are not waived.

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[1] The Express Mail package containing the request for nonpublication stated to have been mailed via Express Mail on March 31, 2005 is not of record in the file.

The projected publication date of this application will be determined upon completion of the pre-examination processing of this application.

If applicant desires to avoid publication of the above-identified application, he may file a continuation application under 37 CFR 1.53(b) claiming benefit to this application under 35 U.S.C. § 120 and 37 CFR 1.78 with a nonpublication request and, thereafter, abandon the application by filing a petition under 37 CFR 1.138(c) for express abandonment to avoid publication, including a petition fee ($130.00). This petition should be mailed to Box PGPUB-ABD or fax to the Pre-Grant Publication Division at (703) 305-8568. For questions relating to the publication of patent applications, call 703-605-4283.

A fee of $400 has been assessed for the petition under 37 CFR 1.183 and has been charged to petitioner's deposit account.

This application is being referred to the Office of Initial Patent Examination for pre-examination processing and for issuance of a Filing Receipt which sets forth the projected publication date of this application.

Telephone inquiries regarding this communication should be directed to the undersigned at 571-272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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Silicon Valley Center
801 California Street
Mountain View, CA 94041

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
David R. Bailey et al.	:	
Application No. 11/095,920	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. 24207-10234	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 27, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Jennifer R. Bush and all attorneys/agents associated with customer number 62296 has been revoked by the assignee of the patent application on April 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS MN 55402

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JUN 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Shashi Seth et al.	:	
Application No. 11/095,934	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 2043.237US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, July 30, 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 October 31, 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 an amendment, (2) the petition fee of $1,620, 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). Since the $$1,110 extension of time fee submitted with the petition on May 6, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3628 for appropriate action by the Examiner in the normal course of business on the reply received

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON OH 44311-1076

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AUG 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,532,930	:	
Schermeier, et al.	:	DECISION ON
Issue Date: May 12, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/095,941	:	OF
Filed: March 31, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 117163.00126	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTEMENT 37 C.F.R. §1.705(d)," filed June 11, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred thirteen (613)days to one thousand and twenty (1,020) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,532,930 with a patent term adjustment of 613 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to *Wyeth*, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees request recalculation of the patent term adjustment to include a 407 day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 407 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 666 days.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 407 days. This 407 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on March 31, 2005, and the patent having not issued until May 12, 2009, three years and 407 days later. Patentees assert that in addition to this 407 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) of 666 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a). A restriction requirement was mailed on March 27, 2008, 14 months and 666 days after the application was filed on March 31, 2005.

Under 37 CFR § 1.703(f), applicants are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR §1.702 reduced by the period of time equal to the period of time during which applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 53 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (407 days) and the period of Examination Delay (666 days) to the extent that these periods of delay are not overlapping.

Patentees contend that no portion of the period of 14 month examination delay of 666 days (June 1, 2006 to March 27, 2008) overlaps with the Three Year Delay period (April 1, 2008 to May 12, 2009). Accordingly, patentees submit that the total period of Office Delay is 1,073 days, which is the sum of the period of Three Year Delay (407 days) and the period of Examination Delay (666 days), reduced by the period of overlap (0 days). See STATEMENT OF THE FACTS INVOLVED IN DETERMINING THE PATENT TERM ADJUSTMENT 37 C.F.R. §1.705(b)(2).

The period of reduction of 53 days for application delay is not in dispute. As such, patentees assert entitlement to a patent term adjustment of 1,020 days (666 + 407 reduced by 0 overlap - 53 for applicant delay).

The Office agrees that the patent issued 3 years and 407 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, the entry of period of adjustment of 666 days is correct. At issue is whether patentees should accrue 407 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 666 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 407 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period

> beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of

adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, March 31, 2005 to May 12, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 666 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. During that time, the issuance of the patent was delayed by 666 days, not 666 + 407 days. The Office took 14 months and 666 days to issue a first Office

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 666 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 407 days after its filing date. The Office did not delay 666 days then an additional 407 days. The 407 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 666 days attributable to ground specified in § 1.702(a)(1). Entry of both periods is not warranted. 666 days was properly determined to be the actual number of days that the issuance of the patent was delayed, considering the 407 days over three years.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 613 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required. The fee will not be refunded.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Hiroshima, Yasushi	:	DECISION ON PETITION
Application No. 11/095,954	:	TO WITHDRAW
Filed: April 1, 2005	:	FROM RECORD
Attorney Docket No. 006582.00012	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 23, 2005. The Request to Withdraw as Attorney or Agent of Record filed March 7, 2006, was not signed by the attorney. Accordingly, only the request submitted on December 23, 2005, will be reviewed.

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 Christopher R. Glembocki on behalf of all attorneys of record who are associated with Customer Number 22907.

All attorneys/agents associated with Customer Number 22907 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

As requested in the December 2005 Request to Withdraw, the correspondence address of record has been changed to the address of the assignee of the entire interest and the new correspondence address is the first address indicated below.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other questions should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

SEIKO EPSON CORPORATION
INTELLECTUAL PROPERTY DIVISION
3-3-5 OWA, SUWA-SHI
NAGANO-KEN 392-8502 JAPAN

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STE 410
FARMINGTON HILLS MI 48334

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OFFICE OF PETITIONS

In re Application of :
Eric M. Priuska et al :
Application No. 11/095,971 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. 3060.00028

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit an amendment in a timely manner in reply to the non-final Office action mailed May 16, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on August 17, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on January 30, 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 Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 1641 for consideration of the amendment in due course.

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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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
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CHICAGO, IL 60606

Mail Date: 04/20/2010

Applicant	: Eric M. Herz	: DECISION ON REQUEST FOR
Patent Number	: 7596528	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/095,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **913** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

Edwards Lifesciences Corporation
Legal Department
One Edwards Way
Irvine, CA 92614

In re Application of	:	
Delos M. Cosgrove et al.	:	
Application No. 11/095,982	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. ECV-5601CON2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of October 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time were obtained. The Advisory Action mailed April 30, 2009 extended the time for reply four (4) months from the mail date of the final Office action. Accordingly, the date of abandonment of this application is February 10, 2009. A Notice of Abandonment was mailed on July 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3774 for processing of the amendment and any action that is required by the Examiner in the normal course of business for the reply received August 5, 2009.

Carl Friedman
Petitions Examiner
Office of Petitions

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NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY, SUITE 200
PRINCETON, NJ 08540

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OFFICE OF PETITIONS

In re Application of:	:	
Miller, Osadchy & LeCun	:	
Application No. 11/095,984	:	DECISION GRANTING
Filed: March 31, 2005	:	STATUS UNDER
Title of Invention: SYNERGISTIC	:	37 CFR 1.47(a)
FACE DETECTION AND POSE	:	
ESTIMATION WITH ENERGY-BASED MODELS	:	

This decision is in response to the Petition Under 37 CFR 1.47(a) to File the Above Identified Application Without Signature of Joint Inventor, filed September 29, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Yann LeCun, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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YANN LeCUN
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OFFICE OF PETITIONS

In re Application of: :
Miller, Osadchy & LeCun :
Application No. 11/095,984 : LETTER
Filed: March 31, 2005 :
Title of Invention: SYNERGISTIC :
FACE DETECTION AND POSE :
ESTIMATION WITH ENERGY-BASED MODELS:

Dear Mr. LeCUN:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: NEC LABORATORIES AMERICA, INC.
4 INDEPENDENCE WAY, SUITE 200
PRINCETON, NJ 08540

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2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Application of	:	
Wesley A. SNYDER	:	
Application No. 11/095,990	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 680372-1U2	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 31, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of applicant's driver's license evidencing his age as over 65 years. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to BethAnne Dayoan at 571-272-3209.

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 3624 for action on the merits commensurate with this decision.

BethAnne Dayoan
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-29-07

TO SPE OF : ART UNIT 3624

SUBJECT : Request for Certificate of Correction on Patent No.: 9158950 B2 (11/095990

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 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

E. James

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

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-29-07

TO SPE OF : ART UNIT 3624

SUBJECT : Request for Certificate of Correction on Patent No.: 9158950 B2 (11/095990)

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 3-915
Palm location 7580 - Tel. No. 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

E. James
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:

SPE

3694
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

Via EFS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Patent Application of Wesley A. Snyder.	:
Patent No.:	7,158,950 B2	: Issued: January 2, 2007
Appln. No.:	11/095,990	: Filing Date: March 31, 2005
For:	PROCESS FOR CREATING A FINANCIAL PLAN FOR FUNDING OF COLLEGE EDUCATION	: Attorney Docket No. 680372-1U2

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT FOR APPLICANT'S MISTAKE (37 C.F.R. § 1.323)

Attached is a PTO/SB/44 (also Form PTO-1050) suitable for printing.

The Assignee listed on the patent is incorrect. The above patent has not been assigned and no assignee should have been listed on the Issue Fee Transmittal form PTOL-85 and accordingly, the error is a result of Applicant's mistake.

The correction does not involve changes in the patent as would constitute new material or would require further examination. Accordingly, it is believed that a Certificate of Correction is appropriate and is respectfully solicited.

Authorization is hereby made to charge the $100 fee to Deposit Account No. 50-1017 (Billing No. 680372.0002).

[X] Charge any additional fees required by this paper or credit any overpayment in the above deposit account.

Respectfully submitted,

By: Clark Jablon

Feb. 14, 2007
(Date)

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2005 Market Street, Suite 2200
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Direct Dial: 215.965.1293
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E-Mail: cjablon@akingump.com

(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : **7,158,950 B2**

DATED : **January 2, 2007**

INVENTOR(S) : **Wesley A. Snyder**

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:

Title page, Section (73)

The assignee information should be deleted to reflect no assignee for the patent

MAILING ADDRESS OF SENDER (Please do not use customer number

PATENT NO. 7,158,950 B2

Clark A. Jablon
Akin Gump Strauss Hauer & Feld, L.L.P.
One Commerce Square, Suite 2200
2005 Market Street
Philadelphia, PA 19103

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ASHOK TANKHA
OF COUNSEL, LIPTON
WEINBERGER & HUSICK
36 GREENLEIGH DRIVE
SEWELL, NJ 08080

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AUG 1 8 2008

In re Application of	:	
Kingsley Chuckwudum **NWOSU**, et al	:	
Application No. 11/095,991	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. ENENIA_03	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Ashok Tankha the sole attorney of record.

Ashok Tankha has been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the first signing inventor at the address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: KINGSLEY CHUCKWUDUM NWOSU
1875 PILGRIM WAY
UNION NJ 07083

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OFFICE OF PETITIONS

NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY R338
P.O. BOX 8097
Emeryville CA 94662-8097

In re Application of	:	
Jefferson, et al.	:	
Application No. 11/095,993	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 21358.0002	:	

This is a decision on the petition under 37 CFR 1.182, filed August 24, 2007, to change the order of the names of the inventors.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. The record does not reflect that practitioner herein has been appointed by applicants. *See*, MPEP 605.04. Accordingly, the petition is subject to dismissal.

Further, the application datasheet is not acceptable as it is not properly identified as a Supplemental Application Datasheet in accordance with 37 CFR 1.76(c).

There is no indication in the record that practitioner has been appointed to represent applicants and, further, the address on the petition differs from that contained in the record. While this decision is being mailed to petitioner, be advised that all future correspondence concerning this application will be directed to the correspondence address of record until such time as appropriate instruction is received is

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

This application is being the Technology Center1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY R338
P.O. BOX 8097
Emeryville CA 94662-8097

In re Application of	:	
Jefferson, et al.	:	
Application No. 11/095,993	:	ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 21358.0002	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed October 29, 2007, to change the order of the names of the inventors.

The petition is **DISMISSED**.

The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. The record does not reflect that practitioner herein has been appointed by applicants. A review of the record reveals that to date, no power of attorney has been submitted in the instant application. *See*, MPEP 605.04. Accordingly, the petition is subject to dismissal.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. In accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party in whose behalf she acts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building

401 Dulany Street
Alexandria, VA 22314

This application is being the Technology Center 1600 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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INTELLECTUAL PROPERTY R338
P.O. BOX 8097
Emeryville CA 94662-8097

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JUN 20 2008

In re Application of	:	
Jefferson, et al.	:	
Application No. 11/095,993	:	DECISION ON PETITION
Filed: March 30, 2005	:	
Attorney Docket No. 21358.0002	:	

This is a decision on the renewed petition under 37 CFR 1.182, filed May 6, 2008, to change the order of the names of the inventors.

The petition is **DISMISSED**.

The petition to change the order of names must be signed by either the attorney or agent of record or all the applicants. *See*, MPEP 605.04.

The power of attorney submitted May 6, 2008 was improperly entered into the record and has been removed. The power of attorney is improper because it is not signed by someone whose authority to represent the assignee has been properly established in accordance with 37 CFR 3.73(b). The statement under 37 CFR 3.73(b) submitted with the power of attorney is signed by Lisa E. Alexander, who indicates that she is authorized to represent the assignee. The power of attorney is signed by Vinit Kathardekar, title unknown. Vinit Kathardekar has not provided a statement under 37 CFR 3.73(b) and has not established that he/she is authorized to act on behalf of assignee.

Accordingly, the petition to change the order of inventorship is subject to dismissal as it has not been signed by the attorney of record or all of the applicants.

It is noted that the issue fee in this application was paid on May 27, 2008. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the order of the inventors' names is an amendment to the application, and amendments are not permitted after the payment of the issue fee, a petition under 37 CFR 1.182 to change the order of the inventors' names cannot be granted upon renewed petition.

In order to now have the Letters Patent reflect the desired order of inventorship, petitioners must file a petition to withdraw from issue under 37 CFR 1.313(c)(2), a request for continued examination (RCE), and a renewed petition under 37 CFR 1.182 (which may act as the submission requirement in 37 CFR 1.114). Additionally, it is strongly recommended that a

Supplemental Application Data Sheet with the desired order of inventorship be submitted with any petition to withdraw from issue under 37 CFR 1.313(c)(2). *Note* MPEP § 605.04(f). Once the patent issues, there is no basis for the USPTO to change the order of the named inventors. *See* Fina Technology v. Ewen, 60 USPQ2D 1314 (Fed. Cir. 2001) (the order of the named inventors is not a clerical error contemplated by § 255; it likewise cannot be corrected in a judicial proceeding under that provision).

If petitioners decides to withdraw this application from issue under 37 CFR 1.313(c)(2), petitioner is advised that the petition must be submitted and granted by the appropriate officials before the date of issue. *Note* 37 CFR 1.313(d). Any request for reconsideration of this matter must be submitted within TWO MONTHS of the mail date indicated above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

This application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

ALESIA M. BROWN
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INTELLECTUAL PROPERTY R338
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OFFICE OF PETITIONS

In re Patent No. 7,470,701
Issued: December 30, 2008
Application No. 11/095,993
Filed: March 30, 2005
Attorney Docket No. **356000-1051**

: LETTER REGARDING
: PATENT TERM ADJUSTMENT

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed February 27, 2009. Pursuant to their duty of good faith and candor to the Office, Patentee requests that the determination of patent term adjustment under 35 U.S.C. § 154(b) be verified.

The request for correction of the determination of patent term adjustment (PTA) is **DISMISSED**.

On December 30, 2008, the above-identified application matured into U.S. Patent No. 7,470,701, with a revised patent term adjustment of 0 days. Patentee states no basis for the request for review of the patent term adjustment.

Patentee states that while they agree that the patent should be accorded 0 days, they believe that the Office's calculation of days of Applicants delay is incorrect.

Given that the alleged error in calculation would not change the Patent Term Adjustment indicated in the above-identified patent, it is determined that no further action is required by the Office. Patentee is advised that this letter does not extend the period for timely filing any request for reconsideration under 37 CFR 1.705(d).

The revised Patent Term Adjustment remains zero (0) days.

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks patentee for their good faith and candor in bringing this to the attention of the Office.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Patricia Faison-Ball, at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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BROSEMER KOLEFAS & ASSOCIATES LLC
1 BETHANY RD
BUILDING 4 - SUITE # 58
HAZLET NJ 07733

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OFFICE OF PETITIONS

In re Application of
Christoper Richard Doerr :
Application No. 11/096,022 : DECISION ON
Filed: March 31, 2005 : PETITION
Attorney Docket No. DOERR-100 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed March 31, 2006.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on November 17, 2005. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on February 18, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, submitted the required reply in the form of the issue and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Srinivas Raghu Gatta	: DECISION ON REQUEST FOR
Patent Number	: 7616588	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,042	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1187** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Julia Church Dierker
Dierker & Associates, P.C.
3331 West Beaver Road, Suite 109
Troy, MI 48084-2813

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MAR 21 2007

OFFICE OF PETITIONS

In re Application of

Subrata Roy
Application No. 11/096,069
Filed: March 31, 2005
Attorney Docket No. KUN-102-A

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 31, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, that the assignee returned rights of this application to the inventor, 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 Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Subrata Roy
1700 West Third Avenue
Flint, MI 48504

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OFFICE OF PETITIONS

Julia Church Dierker
Dierker & Associates, P.C.
3331 West Beaver Road, Suite 109
Troy, MI 48084-2813

In re Application of	:	
Subrata Roy	:	
Application No. 11/096,069	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. KUN-102-A	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed April 18, 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 Julia Church Dierker on behalf of all attorneys associated with customer number 29296. All attorneys/agents associated with customer number 29296 have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Subrata Roy
8722 NW 9th Place
Gainesville, FL 32608

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/096,069	03/31/2005	Subrata Roy	KUN-102-A

CONFIRMATION NO. 8781

OC000000025320321

29296
JULIA CHURCH DIERKER
DIERKER & ASSOCIATES, P.C.
3331 W. BIG BEAVER RD. SUITE 109
TROY, MI 48084-2813

Date Mailed: 08/13/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Kimberly Gabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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WOOD, HERRON & EVANS, LLP (TOKYO ELECTRON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

Applicant	: Jozef Brcka	: DECISION ON REQUEST FOR
Patent Number	: 7651570	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
Washington, D.C. 20231
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MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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JUN 13 2007

OFFICE OF PETITIONS

In re Application of
Hiroshi Fukasaku et al.
Application No. 11/096,106
Filed: March 31, 2005
Attorney Docket No. 5000-5256

ON PETITION

This is a decision on the petition filed May 29, 2007, to withdraw the holding of abandonment , under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before March 8, 2007 as was required by the Notice of Allowance mailed December 8, 2006. This application therefore became abandoned on March 9, 2007. Accordingly, a Notice of Abandonment was mailed April 5, 2007.

The file record discloses that the Notice of Allowance was mailed to the address of record, the address also used for mailing the Notice of Abandonment which was in fact received, however, petitioner contends that it was not received. In support, petitioner indicates that a search of the docket for the instant application and that of the entire firm revealed that the Notice was not received and submits copies of pages from the docketing systems, wherein receipt of the Notice of Allowance would have been entered, had it been received, to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. Since no petition fee is therefore due, petitioner's deposit account 13-4500 will be credited in the amount of $130.00, the fee authorized for the petition.

This matter will be referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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VERIZON LEGAL DEPARTMENT
PATENT MANAGEMENT GROUP
1320 N. COURTHOUSE ROAD
9TH FLOOR
ARLINGTON VA 22201-2525

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OFFICE OF PETITIONS

In re Application of :
Tosun, et al. :
Application No. 11/096,107 :
Filed: March 31, 2005 :
Attorney Docket No. 05-8003 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2009, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned November 7, 2008 for failure to timely submit a proper reply to the final Office action mailed August 6, 2008. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was submitted. Notice of Abandonment was mailed February 17, 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 fails to satisfy requirement (1) set forth above. The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office 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)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

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-

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/096,107	Applicant(s) TOSUN ET AL.	
	Examiner ERIC M. BLOUNT	Art Unit 2612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 April 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-5 and 7-25*.
   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: Applicants arguments are not persuasive. The rejections of the claims as stated in the final office action reasonably meet the limations of the claims as presented for examination.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Eric M. Blount
Primary Examiner
Art Unit: 2612

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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OCT 27 2009

OFFICE OF PETITIONS

VERIZON LEGAL DEPARTMENT
PATENT MANAGEMENT GROUP
1320 N. COURTHOUSE ROAD
9TH FLOOR
ARLINGTON VA 22201-2525

In re Application of	:	
Tosun, et al.	:	
Application No. 11/096,107	:	ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 05-8003	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 2009, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned November 7, 2008 for failure to timely submit a proper reply to the final Office action mailed August 6, 2008. The final Office action set a three month shortened statutory period of time for reply. No petition for extension of time under 37 CFR 1.136(a) was submitted. Notice of Abandonment was mailed February 17, 2009. A petition under 37 CFR 1.137(b) was filed April 14, 2009 and dismissed May 12, 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 has been carefully reviewed and found in compliance with the requirements set forth above.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This application is being directed to Group Art Unit 2612 for consideration of the Request for Continued Examination and submission filed herewith.
Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Michael B. Stewart
RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

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

JUL 2 1 2005

In re Application of
VANDERMEER et al.
Serial Number: 11/096,114
Filed: March 31, 2005
For: INVESTMENT CASTING MOLD AND METHOD OF MANUFACTURE

PETITION UNDER M.P.E.P. 708.02

This is in response to the petition filed March 31, 2005, requesting that the above-identified application be granted Special Status under Section 708.02 II of the MPEP and 37 CFR 1.102 **(fee required)**.

Section 708.02 II of the MPEP requires the petition be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Regarding these requirements, it is noted the petitioner does not include a statement 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.

The petition is **DENIED.**

R Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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

In re Application of	:	JUL 28 2005
VANDERMEER et al.	:	
Serial Number: 11/096,114	:	PETITION UNDER
Filed: March 31, 2005	:	M.P.E.P. 708.02
For: INVESTMENT CASTING MOLD AND METHOD	:	
OF MANUFACTURE	:	

This is a reconsideration of the petition filed March 31, 2005, requesting that the above-identified application be granted Special Status under Section 708.02 II of the MPEP and 37 CFR 1.102.

A decision on the petition was mailed on July 21, 2005 denying the request because it did not include a statement 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. However, a supplemental paper with the required statement was filed on July 27, 2005; the previous decision is hereby withdrawn.

The petition is **GRANTED.**

R Crispino

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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
11/096,115	03/31/2005	2632	625	58169CIP1	12	25	3

CONFIRMATION NO. 6246

UPDATED FILING RECEIPT

OC000000016412685

27975
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Date Mailed: 06/30/2005

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)

Kenneth E. Flick, Douglasville, GA;

Assignment For Published Patent Application

Omega Patents, L.L.C., Douglasville, GA

Power of Attorney: The patent practitioners associated with Customer Number **27975**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/413,047 04/14/2003
which is a CON of 09/583,333 05/31/2000 PAT 6,812,829 *
and is a CIP of 09/382,245 08/25/1999 PAT 6,275,147
which is a CON of 09/023,838 02/13/1998 PAT 6,011,460
which is a CIP of 08/701,356 08/22/1996 PAT 5,719,551
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 04/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/096,115

Projected Publication Date: 08/18/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Remote start control system including an engine speed data bus reader and related methods

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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ALEXANDRIA, VA 22313-1450
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NXP, B.V.
NXP INTELLECTUAL PROPERTY DEPARTMENT
M/S41-SJ
1109 MCKAY DRIVE
SAN JOSE, CA 95131

COPY MAILED

MAR 19 2008

OFFICE OF PETITIONS

In re Application of :
Dirk M. Knotter, et al. :
Application No. 11/096,125 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No. NL02 0337 US2 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 1, 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 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 2, 2007. On November 21, 2007, the present petition was filed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Robert J. Crawford appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition 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 $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; 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

The application is being referred to Technology Center AU 1792 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: ROBERT J. CRAWFORD
CRAWFORD MAUNU PLLC
1270 NORTHLAND DRIVE
SUITE 390
ST. PAUL, MN 55120

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.

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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MAR 2 4 2008

COLIN P. ABRAHAMS
5850 CANOGA AVENUE
SUITE 400
WOODLAND HILLS CA 91367

In re Application of	:	
Stevens	:	
Application No.11/096147	:	DECISION
Filed: 31 March, 2005	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on 10 January, 2008, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED**.

NOTES: Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181."

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 4 September, 2007, with reply due under a non-extendable deadline on or before 4 December, 2007;

- the application went abandoned after midnight 4 December, 2007;

- the Office mailed the Notice of Abandonment on 2 January, 2008;

- on 10 January, 2008, Petitioner filed the instant petition with, *inter alia*, an averment of timely payment and submission of a check in the amount of $700,00, however, Petitioner: (a) provides no date-stamped receipt card evidencing receipt of the payment by the Office, and (b) ignores the Notice of Insufficient Payment: at the time Petitioner submitted payment, the schedule of fees set the Issue Fee at $720.00, and Petitioner provided no authorization to charge any deficiency in payment to a deposit account, resulting in a deficit of at of $20.00 in the fees then due—thus, Petitioner fails to make a showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

Petitioner is cautioned always to check the Office website (www.uspto.gov) for the schedule of then-current fees.

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 the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

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.[7] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears not to have satisfied showing requirement herein as discussed in the BACKGROUND, above—to wit: Petitioner: (a) provides no date-stamped receipt card evidencing receipt of the payment by the Office, and (b) ignores the Notice of Insufficient Payment: at the time Petitioner submitted payment, the schedule of fees set the Issue Fee at $720.00, and Petitioner provided no authorization to charge any deficiency in payment to a deposit account, resulting in a deficit of at of $20.00 in the fees then due—thus, Petitioner fails to make a showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing.

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[3] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

CONCLUSION

Petitioner appears not to have satisfied the burdens herein, and the petition as considered 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: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[8]) 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

---

[8] 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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LUMENERGI
(C/O) THE LAW OFFICE
OF ROBERT A. MCLAUCHLAN
POST OFFICE BOX 26780
AUSTIN TX 78755

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NOV 17 2008
OFFICE OF PETITIONS

In re Application of	:	
Stevens	:	
Application No.11/096147	:	DECISION
Filed: 31 March, 2005	:	
Attorney Docket No. (None)	:	

This is a decision on the petitions filed on 24 April and 30 June, 2008, considered as petitions under 37 C.F.R. §1.137(b) to revive the application as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

- Applicant, failed to reply timely and properly to the Notice of Allowance and Fees Due mailed on 4 September, 2007, with reply due under a non-extendable deadline on or before 4 December, 2007;

- the application went abandoned after midnight 4 December, 2007;

- the Office mailed the Notice of Abandonment on 2 January, 2008;

- on 10 January, 2008, Petitioner filed the original petition under 37 C.F.R. §1.181 seeking withdrawal of the holding of abandonment with, *inter alia*, an averment of timely payment and submission of a check in the amount of $700.00, however, Petitioner: (a) provided no date-stamped receipt card evidencing receipt of the payment by the Office, and (b) ignores the Notice of Insufficient Payment: at the time Petitioner submitted payment, the schedule of fees set the Issue Fee at $720.00, and Petitioner provided no authorization to charge any deficiency in payment to a deposit account, resulting in a deficit of at of $20.00 in the fees then due—thus, Petitioner failed to make a showing consistent with the requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(B) as to timely filing—thus the petition was dismissed on 24 March, 2008.

- The instant petitions followed—the first filed by new Counsel and the second signed by former Counsel who had knowledge of the facts attendant to the time of abandonment and who makes the statement of unintentional delay—with the petition fee and reply in the form of fees due, and the statement as noted earlier.

(A copy of the decision is being forwarded to former Counsel who, as noted above, submitted the additional signed petition attesting to the nature of the delay.)

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

---

[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).

The instant application is released to Publications Branch to be processed into a patent.

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to Publications Branch 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[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc:
COLIN P. ABRAHAMS
5850 CANOGA AVENUE
SUITE 400
WOODLAND HILLS CA 91367

---

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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JONES DAY
222 E. 41ST. STREET
NEW YORK NY 10017

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JUL 13 2010
OFFICE OF PETITIONS

In re Patent No. 7,723,361	:	
Issue Date: March 31, 2005	:	
Application No. 11/096,155	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. **9516-377-999**	:	

This is a decision on the petition, filed, May 27, 2010, 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 "The Children's Medical Center Corporation" 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 "The Children's Medical Center Corporation" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Terri Johnson

Terri Johnson
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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RADER FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Murugappan Subbarayan et al	:	
Application No. 11/096,170	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 66445-0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert L. Kelly on behalf of all attorneys of record who are associated with Customer No. 10291.

Applicant is reminded that there is no attorney of record at this time.

The Revocation of Power of Attorney submitted March 30, 2006 is not accepted. Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. See MPEP 402.05.

All future correspondence will be directed to the first named inventor Murugappan Subbarayan at the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Murugappan Subbarayan
5107 Shady Creek Drive
Troy, MI 48085-3285

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JON L. ROBERTS
ROBERTS ABOKHAIR & MARDULA, LLC
11800 SUNRISE VALLEY DRIVE, SUITE 1000
RESTON, VA 20191-5302

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APR 12 2006
OFFICE OF PETITIONS

In re Application of	:	
ROSENFELD et al.	:	
Application No. 11/096,189	:	DECISION ON PETITIONS
Filed: March 31, 2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 2483-005	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed November 3, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

Nonprovisional application (U.S. Application No. 09/443,072, filed November 18, 1999) was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Additionally, the intermediate application (U.S. Application No. 09/443,072) was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/141,520, which was filed on June 23, 1999, for which priority is claimed.

With respect to requirement (3), 37 CFR 1.78(a)(3)(iii) and 1.78(a)(6)(iii) requires a statement that the entire delay between the date the claim was due under paragraphs (a)(2)(ii) and (a)(5)(ii) of this section and the date the claim was filed was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1. 78(a)(3)(iii) and 1.78(a)(6)(iii), the statement contained in the petition is being construed as the statement required by 37 CFR 78(a)(3)(iii) and 1.78(a)(6)(iii). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Denise Pothier at (571) 272-4787. 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 3626 for appropriate action on the amendment submitted November 3, 2005, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON, VA 20191

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JAN 23 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Brian A. Rosenfeld, et al. :
Application No.: 11/096,189 :
Filed: March 31, 2005 :
Attorney Docket No.: 2483-005 :

This is a decision on the petition, filed January 21, 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 October 25, 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 3626 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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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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SEP 15 2005

OFFICE OF PETITIONS

In re Application of :
Helgadottir, et al. :
Application No. 11/096,191 : DECISION GRANTING PETITION
Filed: March 30, 2005 :
Attorney Docket No. 30847/40792B :

This is a decision on the petition filed June 16, 2005, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of March 30, 2005, rather than the presently accorded filing date of March 31, 2005. The petition will be treated under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited with the Express Mail Service on March 30, 2005. In support of the allegation, the petition is accompanied by a copy of the Express Mail label with a tracking number EV323768845US showing a "date-in" of March 30, 2005. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on March 30, 2005.

In view of the above, the petition is granted. The new filing date for the above-cited application is March 30, 2005.

The Office of Initial Patent Examination will further process the application with a filing date of March 30, 2005, and issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

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APR 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,617,205
Issued: November 10, 2009
Application No. 11/096,198
Filed: March 30, 2005
Dkt. No.: 16113-1111001

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed on January 11, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,039 days.

The petition to correct the patent term adjustment indicated on the above-identified patent 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 31, 2008 and ends on June 4, 2009, the day before the RCE was filed, and not June 5, 2009, the day of filing of the RCE as calculated by patentees. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 431 days and not 432 days. Thus, considering the "A" delay of 829 days, the "B" delay of 431, the overlap of 159 days, and the applicant delay of 63 days, the correct patent term adjustment is 1,038 days, not 1,039 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See, 37 CFR 1.323(a)(4).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,038 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,617,205 B2

DATED : **November 10, 2009** **DRAFT**

INVENTOR(S) : Bailey, 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 766 days

Delete the phrase "by 766 days" and insert – by 1,038 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO CA 94303

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JUL 11 2008

In re Application of :
James G. Whayne :
Application No. 11/096,205 : ON PETITION
Filed: March 30, 2005 :
Attorney Docket No: NCNTNZ00101

This is a decision on the petition filed May 8, 2008 under 37 CFR 1.182, for withdrawal of terminal disclaimer filed October 1, 2007.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed January 22, 2008, does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

The petition fee in the amount of $400 has been charged to the credit card supplied with the petition and per the authorization.

This matter is being referred to Technology Center 3739 to correct the records related to the terminal disclaimer filed January 22, 2008, consistent with this decision.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 8 2007

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of	:
Duane Wolf	:
Serial No.: 11/096,207	: PETITION DECISION
Filed: March 31, 2005	:
Attorney Docket No.: GN05-61211	:

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on December 29, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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MARK BARRISH
TOWNSEND AND TOWNSEND AND CREW
379 LYTTON AVE
PALO ALTO, CA 94301

In re Application of	:	
Yulun Wang, et al.	:	
Application No. 11/096,215	:	DECISION ON REQUEST
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. 022001-000846US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed July 11, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark D. Barrish and all the other attorneys/agents associated with Customer Number 20350 was revoked by the assignee of the patent application on February 23, 2006. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FRANK NGUYEN
PATENT DEPT
INTUITIVE SURGICAL, INC
950 KIFER ROAD
SUNNYVALE CA 94086

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OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

In re Application of	:	
Andrew Carter	:	
Application No. 11/096,241	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. CART-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 March 29, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Bozicevic, Field & Francis, LLP has been revoked by the applicant of the patent application on March 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: STEVEN J. HULQUIST
PO BOX 14329
RESEARCH TRIANGLE PARK
RALEIGH, NC 27709

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KING & SPALDING LLP
P.O. BOX 889
BELMONT, CA 94002-0889

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MAY 22 2009

OFFICE OF PETITIONS

In re Application of	:	
BONNER JR., Ernest L. et al.	:	
Application No. 11/096,260	:	DECISION ON PETITION
Filed: March 29, 20085	:	TO WITHDRAW
Attorney Docket No. **63813-8001.US07**	:	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, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Customer No. #79975 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the 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: **PERKINS COIE LLP**
P.O. BOX 1208
SEATTLE WA 98111-1208

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JUN - 5 2007

DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of :
Theron Roundy
Serial No.: 11/096,261
Filed: March 31, 2005
Attorney Docket No.: INBRED CORN LINE
GH05-600

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on December 29, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JUL 17 2007

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DANA REWOLDT
GARST SEED COMPANY
2369 330TH STREET
PO BOX 500
SLATER IA 50244

In re Application of :
Duane Paul Wolf
Serial No.: 11/096,270
Filed: March 31, 2005
Attorney Docket No.: GN05-61211

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on December 29, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

However, no such attachment has been and/or was received on December 29, 2006. Therefore, no information can be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition and attachment and no additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Application of	:	
MAURER, et al.	:	
Application No. 11/096,285	:	DECISION ON PETITION
Filed: March 30, 2005	:	TO WITHDRAW
Attorney Docket No. 14873-005001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 19, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Scott C. Harris 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 correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID WEST - GEOMETRIX**
1590 THE ALAMEDA, SUITE 200
SAN JOSE, CA 95126

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford CT 06103

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FEB 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Santos et al.	:	DECISION ON PETITION
Application No. 11/096,305	:	TO WITHDRAW
Filed: April 1, 2005	:	FROM RECORD
Attorney Docket No. SAA-0001	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed December 22, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address submitted on December 22, 2009 is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, 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, 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 replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with item (1) of the above certifications.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named

inventor. The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of the first named inventor, but rather the second named inventor. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

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APR 29 2010
OFFICE OF PETITIONS

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of	:	
Santos et al.	:	DECISION ON PETITION
Application No. 11/096,305	:	TO WITHDRAW
Filed: April 1, 2005	:	FROM RECORD
Attorney Docket No. SAA0001US	:	

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 April 3, 2010 and the Supplemental petition filed April 21, 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 Jay L. Chaskin on behalf of all attorneys of record who are associated with Customer No. 23413.

All attorneys/agents associated with Customer Number 23413 have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor at the address indicated below.

Currently, a Notice of Non-Compliant Amendment was mailed March 26, 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: Carla Cunha Santos
3442 Riverside Drive
Oceanside, NY 11572

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United States Patent and Trademark Office
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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/17/2010

Applicant	: Cengiz A. Palanduz	: DECISION ON REQUEST FOR
Patent Number	: 7629269	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/096,315	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.:20080319

DATE : March 19, 2008

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☒ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

The changes to column 15, line 28 and column 16, line 25 are approved. The changes to column 15 lines 32 and 35 can not be approved because "5" does not appear on the specified lines. If the request read "delete '7' and insert --6--." the request would have been approved.

SPE: /MKZ/ Art Unit 2628

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Paper No.

FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

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JUL 09 2010

OFFICE OF PETITIONS

In re Patent No. 7623707	: DECISION ON REQUEST
Jonathan Brandt	: FOR
Issue Date: 11/24/2009	: RECONSIDERATION OF
Application No. 11/096349	: PATENT TERM ADJUSTMENT
Filed: 04/01/2005	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
07844-694001/P643	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-three (1063) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand sixty-three (1063) 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 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 sixty-three (1063)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,623,707 B2

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Brandt

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 831 days.

Delete the phrase "by 831 days" and insert – by 1063 days--

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OFFICE OF PETITIONS

In re Application of	:	
Robin B. Schilling	:	
Application No. 11/096,364	:	ON PETITION
Filed: April 1, 2005	:	
Attorney Docket No. 17872	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to submit formal drawings on or before August 17, 2007 in reply to the Notice of Allowability, mailed May 17, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on August 18, 2007. A Notice of Abandonment was mailed on September 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of replacement drawings; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of May 17, 2007 is accepted as 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.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

This application is being referred to the Office of Data Management for further processing in accordance with this decision reviving the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Peter Stomma
Boyle Frederickson, S.C.
840 North Plankinton Avenue
Milwaukee, WI 53203

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GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
SUITE 504
WOODBRIDGE NJ 07095

MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Stephen Jones, et al.	:	
Application No. 11/096,374	:	DECISION GRANTING PETITION
Filed: April 1, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 542/2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 18, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 12, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 3636 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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BERKELEY LAW AND TECHNOLOGY GROUP LLC
1700NW 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

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OFFICE OF PETITIONS

In re Application of	:	
Albrecht et al.	:	
Application No. 11/096,386	:	
Filed: April 1, 2005	:	DECISION ON
Title of Invention: SYSTEM FOR	:	PETITION
CREATING A GRAPHICAL VISUALIZATION OF	:	
DATA WITH A BROWSER	:	

This is a decision in response to the Petition to Withdraw Holding of Abandonment under 37 CFR 1.181, filed March 10, 2006.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly responsd to the Notice to Missing Parts of Nonprovisional Application ("Notice"), mailed April 27, 2005. The Notice 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.

Petition under 37 CFR 1.181

Applicant files the instant petition wherein Applicant provides that a timely reply to the Notice was filed and received in this Office on June 27, 2005. In support of this assertion, Applicant files a copy of a Auto-Reply Facsimile Transmission report evidencing receipt in this Office of 15 pages of documents on June 27, 2005. Applicant also files copies of documents putatively comprising the transmission.

A review of the documents reveals that the documents included a Certificate of Facsimile Transmission executed by Shannon R. Verboort. A review of the petition papers reveals that Applicant has not provided a statement from attesting to the transmission; however, Applicant files a copy of his facsimile log. See MPEP 711.03(c). A review of the copy of the Auto-Reply Facsimile Transmission reveals that the 15 pages were properly faxed to 703-746-4060. See MPEP 502.01(I)(B).

Applicant also included a copy of a putatively-filed Fee Transmittal Form, executed by the Practitioner, which includes a Credit Card authorization for the late filing oath or declaration surcharge, and an authorization to charge his deposit account any deficient amount.

In view of the above, the petition is granted. Applicant has demonstrated by a preponderance of the evidence timely submission of the response to the Notice.

The petition is granted. The holding of abandonment is withdrawn.

This application is being referred to the Office of Initial Patent examination for continued processing of the response, a copy of which is filed with the instant petition, in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE WA 98111-1208

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OFFICE OF PETITIONS

In re Application of :
Kyle M. Hanson, et al. :
Application No. 11/096,428 :
Filed: March 29, 2005 :
Attorney Docket No. 63857.8158.US05 :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3) AND
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. 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 1795 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Sherry D. Brinkley
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
11/096,428	03/29/2005	1795	1000	63857.8158.US05	15	3

CONFIRMATION NO. 4571

CORRECTED FILING RECEIPT

45540
PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE, WA 98111-1208

OC000000030241803

Date Mailed: 06/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kyle M. Hanson, Kalispell, MT;
Thomas L. Ritzdorf, Bigfork, MT;
Gregory J. Wilson, Kalispell, MT;
Paul R. McHugh, Kalispell, MT;

Power of Attorney: The patent practitioners associated with Customer Number 45540

Domestic Priority data as claimed by applicant

This application is a CON of 09/872,151 05/31/2001 PAT 7,264,698
which is a CIP of 09/804,697 03/12/2001 PAT 6,660,137
which is a CON of PCT/US00/10120 04/13/2000
which claims benefit of 60/129,055 04/13/1999
This application 11/096,428
is a CIP of 10/158,220 05/29/2002
which claims benefit of 60/294,690 05/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 04/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/096,428**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for electrochemical processing of microelectronic workpieces

Preliminary Class

204

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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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Kai Chen	: DECISION ON REQUEST FOR
Patent Number	: 7661128	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,432	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 05/17/2010

Applicant : Kai Chen
Patent Number : 7661128
Issue Date : 02/09/2010
Application No : 11/096,432
Filed : 03/31/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1327** 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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GENETICS INSTITUTE, LLC
87 CAMBRIDGEPARK DRIVE
CAMBRIDGE, MA 02140

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FEB 2 1 2006

ON PETITION
OFFICE OF PETITIONS

In re Application of	:
Fukagaya, et al.	:
Application No. 11/096,452	:
Filed: March 31, 2005	:
Attorney Docket No. CTW-032	:

This is a decision on the petition under 37 CFR 1.10(c), filed June 28, 2005, requesting that the above-identified application be accorded a filing date of March 31, 2005, rather than the presently accorded filing date of April 1, 2005. The petition was recently forwarded to this office for consideration.

Petitioners allege that the application was deposited in Express Mail service on March 31, 2005. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV466145443US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of March 31, 2005.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on March 31, 2005.

As such, the petition is **GRANTED**.

Accordingly, the application is entitled to a filing date of March 31, 2005.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of March 31, 2005 and issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

Track & Confirm

Search Results

Label/Receipt Number: **EV46 6145 443U S**
Detailed Results:

- **Delivered, April 04, 2005, 7:53 am, ALEXANDRIA, VA 22313**
- **Arrival at Pick-Up-Point, April 02, 2005, 8:38 am, ALEXANDRIA, VA 22313**
- **Arrival at Unit, April 02, 2005, 8:16 am, DULLES, VA 20102**
- **Enroute, April 01, 2005, 2:25 pm, EAST BOSTON, MA 02228**
- **Acceptance, March 31, 2005, 10:11 pm, BOSTON, MA 02205**

< Back

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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
11/096,452	03/31/2005	2811	565	CTW-032	7	15	2

CONFIRMATION NO. 8791

UPDATED FILING RECEIPT

OC000000018190214

00959
LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

Date Mailed: 03/03/2006

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)

Masato Fukagaya, Nagoya, JAPAN;
Osamu Koido, Nagoya, JAPAN;

Assignment For Published Patent Application

SOHKi Co., Ltd., Nagoya, JAPAN

Power of Attorney: The patent practitioners associated with Customer Number **00959**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-102194 03/31/2004

If Required, Foreign Filing License Granted: 04/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/096,452

Projected Publication Date: 06/15/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Circuit boards, electronic devices, and methods of manufacturing thereof

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 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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CUMMINGS & MEHLER LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

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MAR 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Veselin Skendzic	:	
Application No. 11/096,474	:	ON PETITION
Filed: April 1, 2005	:	
Attorney Docket No. 1444-0117	:	

This is a decision on the petition, filed March 8, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 20, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2832 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE WA 98111-1208

In re Application of	: DECISION ON PETITION
Kyle M. Hanson et al.	: UNDER 37 CFR 1.78(a)(3)
Application No. 11/096,477	: and
Filed: March 29, 2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 63857.8158.US06	:

This is a decision on the petition filed February 29, 2008, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional application 10/158,220, and under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application 60/294690, both of which are 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) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claims for priority under 35 U.S.C. § 120 and 119(e) are accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1795 for appropriate action on the amendment submitted February 29, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 119(e) for the benefit of priority to the prior-filed applications.

Anthony Knight
Supervisory Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/096,477	03/29/2005	1795	1000	63857.8158.US06	17	3

CONFIRMATION NO. 8859

CORRECTED FILING RECEIPT

45540
PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE, WA 98111-1208

OC000000030367151

Date Mailed: 06/09/2008

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 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)

Kyle M. Hanson, Kalispell, MT;
Thomas L. Ritzdorf, Bigfork, MT;
Gregory J. Wilson, Kalispell, MT;
Paul R. McHugh, Kalispell, MT;

Power of Attorney: The patent practitioners associated with Customer Number 45540

Domestic Priority data as claimed by applicant

This application is a CON of 09/872,151 05/31/2001 PAT 7,264,698
which is a CIP of 09/804,697 03/12/2001 PAT 6,660,137
which is a CON of PCT/US00/10120 04/13/2000
which claims benefit of 60/129,055 04/13/1999
This application 11/096,477
is a CIP of 10/158,220 05/29/2002
which claims benefit of 60/294,690 05/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/24/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/096,477**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for electrochemical processing of microelectronic workpieces

Preliminary Class

204

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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COLOPLAST A/S
Attention: Corporate Patents
Holtedam 1
DK-3050 Humlebaek,
DENMARK

Mail Date: 07/12/2010

Applicant	: Martin T. Steele SR.	: DECISION ON REQUEST FOR
Patent Number	: 7648456	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/096,478	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Bryant R. Gold
Laura Haburay Bishop
25129 Rye Canyon Loop
Valencia, CA 91355

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JUL 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Kerry Bradley, et al.	:	
Application No. 11/096,483	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 05-00587 (01)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on October 9, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Vista IP Law Group LLP**
2040 Main Street, 9th Floor
Irvine, CA 92614

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SEATTLE WA 98111-1208

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JUN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Hanson et al.	:	
Application No. 11/096,495	:	DECISION ON PETITIONS
Filed: 03/29/2005	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 63857.8158.US01	:	

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed with the present petition.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1795 for consideration by the examiner of the claim under 35 U.S.C. §§ 120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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
11/096,495	03/29/2005	1795	2180	63857.8158.US01	23	5

CONFIRMATION NO. 3865

CORRECTED FILING RECEIPT

45540
PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE, WA 98111-1208

OC000000030286603

Date Mailed: 06/04/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kyle M. Hanson, Kalispell, MT;
Thomas L. Ritzdorf, Bigfork, MT;
Gregory J. Wilson, Kalispell, MT;
Paul R. McHugh, Kalispell, MT;

Power of Attorney: The patent practitioners associated with Customer Number 45540

Domestic Priority data as claimed by applicant

This application is a CON of 09/872,151 05/31/2001 PAT 7,264,698
which is a CIP of 09/804,697 03/12/2001 PAT 6,660,137
which is a CON of PCT/US00/10120 04/13/2000
which claims benefit of 60/129,055 04/13/1999
This application 11/096,495
is a CIP of 10/158,220 05/29/2002
which claims benefit of 60/294,690 05/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/096,495**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for electrochemical processsing of microelectronic workpieces

Preliminary Class

204

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE NJ 08801-0900

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MAR 19 2009

OFFICE OF PETITIONS

In re Application of
Stuart S. Shih et al.
Application No. 11/096,501
Filed: April 1, 2005
Attorney Docket No. **GJH-0509(P2004J026)**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed March 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed August 27, 2008. A response was filed January 26, 2009, but by Advisory Action of February 13, 2009, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that the previously filed amendment be accepted as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 1793 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
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 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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SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPARTMENT
920 DISC DRIVE, MS/SV02A7
SCOTTS VALLEY, CA 95066-4544

Mail Date: 04/21/2010

Applicant	: Michael Mallary	: DECISION ON REQUEST FOR
Patent Number	: 7618721	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,519	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1157** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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: 04/21/2010

Applicant	: Jeffrey B. Sampsell	: DECISION ON REQUEST FOR
Patent Number	: 7586484	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **927** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/096,548	04/01/2005	Akira Koseki	JP920040022US1	4577

27431 7590 07/30/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER
DAM, TUAN QUANG

ART UNIT	PAPER NUMBER
2192	

MAIL DATE	DELIVERY MODE
07/30/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JUL 29 2008

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SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: KOSEKI et al.
Application No. 11/096,548
Filed: April 1, 2005
For: OPTIMIZATION OF CONVERSION OF A CHARACTER CODING SYSTEM

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) program and the petition under 37 CFR 1.102(d), filed June 20, 2008 to make the above- identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in

the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH program and petition comply with the above requirements, and accordingly, the above-identified application has been accorded "special" status.

The request and petition are **GRANTED**.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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

DAVID T. BRACKEN
THE LAW OFFICE OF DAVID T. BRACKEN
4839 BOND AVENUE
ORANGE, CA 92869

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SEP 22 2008

In re Application of	:	
Mike Hoftman	:	
Application No. 11/096,551	:	ON PETITION
Filed: April 1, 2005	:	
Attorney Docket No. 0407.1A2	:	

This is a decision on the petition filed May 21, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee in a timely manner in reply to the Notice of Allowance mailed November 1, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 2, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)

Application Information

Application Number	11/096,560	Confirmation Number	4495	Filing Date	2005-04-01
Attorney Docket Number (optional)	FABRIC-46658	Art Unit	3634	Examiner	Purol, David M
First Named Inventor	Milton A. Morris				
Title of Invention	TRACK ASSEMBLY FOR SUPPORTING FABRICS				

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
Milton	A.	Morris	

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	/Aaron T. Borrowman/	Date (YYYY-MM-DD)	2008-03-14
Name	Aaron T. Borrowman	Registration Number	42348

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
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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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Application of
Milton A. Morris

Application No. 11096560

Filed: April 1,2005

Attorney Docket No. FABWALL-46658

: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 13-MAR-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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CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
THIRD FLOOR
NEW YORK NY 10038

In re Application of	:	
Che-Ming Chang	:	
Application No. 11/096,570	:	DECISION ON PETITION
Filed: 1 April, 2005	:	
Atty Docket No. 15458 B (SW-971145)	:	

This is a decision on the petition filed on 9 March, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 29 June, 2005, for failure to timely reply to the Notice of File Missing Parts of Nonprovisional Application mailed on 28 April, 2005, which set a

[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)).

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 10 January, 2006.

Petitioner has filed a declaration and the surcharge for its late filing 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Claude Basso	: DECISION ON REQUEST FOR
Patent Number	: 7577151	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,571	: OF WYETH
Filed	: 04/01/2005	:
		:

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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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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OFFICE OF PETITIONS

In re Application of	:	
McCabe et al.	:	
Application No.: 11/096588	:	DECISION ON
Filing or 371(c) Date: 04/01/2005	:	PETITION
Attorney Docket Number: 1047.18832	:	

This is a decision in response to the correspondence regarding the Notice of Abandonment, filed March 18, 2009. The correspondence is properly treated as a petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(a). See, MPEP 711.03(c).

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed August 19, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No timely reply having been received, the application became abandoned on November 20, 2008. A Notice of Abandonment was mailed February 27, 2009.

The present petition

Applicant files the present petition and asserts that a timely reply to the Office action, along with a three (3) month extension of time was filed and included a Certificate of Mailing dated February 19, 2009. In support of this assertion Applicant files a copy of the reply.

A review of the reply reveals that it contains a Certificate of Mailing executed on February 19, 2009, executed by Angela Raasch. A review of the present petition reveals that no statement from Ms. Raasch, attesting to the timely mailing of the reply, has been included therewith.

Applicable Law, Rules and MPEP

37 CFR 1.8(b), Certificate of mailing or transmission, states:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.
> (c) The Office may require additional evidence to determine if the correspondence was timely filed. (Emphasis supplied).

37 CFR 1.8(b)

Analysis/Conclusion

While Applicant has demonstrated, and Office records confirm, that a reply to the Office action was filed on February 23, 2009, Applicant has failed to demonstrate that the reply should be considered as having been timely filed in accordance with 37 CFR 1.8(a). Applicant has failed to comply with 37 CFR 1.8(b)(3). In this regard, a statement from Ms. Raasch, which attests on a personal knowledge basis to the previous timely mailing or transmission, is required.

The petition is dismissed without prejudice. Applicant should file a request for reconsideration of petition and include the necessary statement.

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/
Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
McCabe et al.	:	
Application No.: 11/096588	:	DECISION ON
Filing or 371(c) Date: 04/01/2005	:	PETITION
Attorney Docket Number: 1047.18832	:	

This is a decision in response to the Request for Reconsideration of Petition, filed July 13, 2009. The request for reconsideration is properly treated as a petition to withdraw the holding of abandonment under 37 C.F.R. 1.181(a). See, MPEP 711.03(c).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed August 19, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No timely reply having been received, the application became abandoned on November 20, 2008. A Notice of Abandonment was mailed February 27, 2009.

With the present renewed petition, Applicant has demonstrated non-receipt of the Office Action by a preponderance of the evidence.

The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3761 for processing of the Amendment filed February 23, 2009 (Certificate of Mailing Dated February 19, 2009), and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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OCT 28 2005

OFFICE OF PETITIONS

In re Application of :
George A. Antonelli et al :
Application No. 11/096,596 :
Filed: March 31, 2005 :
Attorney Docket No. 42P20368 :

ON PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed July 1, 2005, requesting that the above-identified application be accorded a filing date of March 31, 2005, with 8 sheets of drawings as part of the original disclosure.

The application was filed on March 31, 2005. On May 26, 2005, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application (Notice)" stating that a filing date had not been accorded because the application was deposited without drawings.

In response, the present petition was filed. Petitioner asserts that 8 sheets of drawings were filed on March 31, 2005. In support, the petition is accompanied by a copy of a postcard receipt, indicating receipt in the USPTO for this application on March 31, 2005, *inter alia*, "drawings: 8 sheets, 8 figures." The petition also encloses copies of the 8 sheets of drawings allegedly filed on that date.

In view of the evidence presented, the Office concludes that 8 sheets of drawings were filed on March 31, 2005, but was later misplaced. Accordingly, the petition is granted.

The Notice of May 26, 2005, was improper for the following reason. This application contained, on filing, at least one method or process claim, which normally does not require a drawing. It is USPTO policy, per MPEP 601.01(f), to treat such an application under the procedure set forth in MPEP 601.01(g). Under that procedure, rather than mailing a Notice of Incomplete Nonprovisional Application indicating that the lack of drawings precluded the grant of a filing date, the USPTO should have accorded the application papers a filing date of March 31, 2005, and sent a Notice of Omitted Items. Accordingly, the Notice mailed May 26, 2005, insofar, as not granting the application a filing date, was mailed in error and is vacated

The $400.00 petition fee is being credited to Deposit Account No. 02-2666 as authorized.

Telephone inquires specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to the Office of Initial Patent Examination for further processing with a filing date of March 31, 2005, using the application papers filed on that date, and the copies of 8 sheets of drawings supplied with the present petition, and for indicating in the USPTO record that 8 sheets of drawings were present on filing.

Frances Hicks for

Brian Hearn
Senior Petitions Examiner
Office of Petitions

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JAN 16 2009

OFFICE OF PETITIONS

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

In re Application of :
Sutton, et al. :
Application No. 11/096,618 : ON PETITION
Filed: March 31, 2005 :
Attorney Docket No. 42P13594C

This is in regarding the papers filed December 11, 2008, which will be treated as a petition under 37 CFR 1.137(b).

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 application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Due mailed May 19, 2008. The notice set a statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on August 20, 2008. A Notice of Abandonment was mailed on September 11, 2008.

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 pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional 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 require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

The instant petition does not satisfy the requirements of item (3) above.

As to Item (3), 37 CFR 1.137(b) requires that petitioner state that the entire delay in responding to the Office action—from the due date for a reply until the filing of a grantable petition—was unintentional. The papers filed December 11, 2008, did not include such a statement. Any renewed petition must include the statement of unintentional delay required by 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Sutton, et al.
Application No. 11/096,618
Filed: March 31, 2005
Attorney Docket No. 42P13594C

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b) filed March 18, 2009.

The petition is GRANTED.

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Due mailed May 19, 2008. The notice set a statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on August 20, 2008. A Notice of Abandonment was mailed on September 11, 2008.

The issue fee and publication fee were received on December 11, 2008.

It is noted that the issue fee, publication fee, and petition fee were paid twice. The amounts, totaling $3,430.00 will be refunded to deposit account 50-0221 in due course.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Thomas R. Lane
4040 Lafayette Center Drive
Chantilly, VA 20151

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SAN FRANCISCO CA 94111-3834

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AUG 09 2005

OFFICE OF PETITIONS

In re Application of Chishti, et al. Application No. 11/096,627 Filed: March 31, 2005 Attorney Docket No. 018563-005230US	: : : : :	DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 C.F.R. § 1.47(b), filed July 25, 2005.

The petition under 37 C.F.R. § 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. § 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 25, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, as well as a substitute declaration. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time.

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), there is no indication that Rule 47 applicant has submitted a declaration. On renewed petition, applicant must submit an oath or declaration in compliance with 37 C.F.R. § 1.63. As set forth in MPEP 409.03(b), the "37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175." The declaration must be executed, and must identify the full name, residence, post office address, and citizenship of the nonsigning inventor. In addition, the title or position of the person signing must be stated if signing on behalf of a corporation. A corporation may authorize any person, including a registered attorney or agent, to sign the oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, proof of the attorney's or agent's authority in the form of a statement signed by the appropriate corporate officer must be submitted, or the attorney or agent can simply state that he or she is authorized to sign on behalf of the corporation.[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)272-3207
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] See MPEP 409.03(b).

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of Chishti, et al. Application No. 11/096,627 Filed: March 31, 2005 Attorney Docket No. 018563-005230US	DECISION GRANTING STATUS UNDER 37 CFR 1.47(b)

This is in response to the renewed petition under 37 C.F.R. § 1.47(b), filed October 3, 2005.

The petition under 37 C.F.R. § 1.47(b) is **GRANTED**.

The above-identified application was filed on March 31, 2005, without an executed oath or declaration. Accordingly, on April 25, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its late filing, as well as a substitute declaration. This Notice set a two-month period for reply.

In reply, applicant filed the a petition under 37 C.F.R. § 1.47(b) on July 25, 2005, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely this reply, applicant obtained a one month extension of time. However, the petition was dismissed in a decision mailed on August 9, 2005. Petitioner did not submit a declaration in compliance with 37 C.F.R. § 1.63.

A grantable petition under 37 C.F.R. § 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. § 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of irreparable damage.

The declaration filed with the instant petition has been determined to be in compliance with 37 CFR 1.63. Petitioner satisfied the other requirements for a grantable petition on July 25, 2005.

This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

As no petition fee is required for a renewed petition, the $200 petition fee has been refunded to petitioner's deposit account.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MUHAMMAD CHISTI
910 15TH ST NW
APT 910
WASHINGTON DC 20005

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of Muhammad Chisti, Huafeng Wen, Wonceol Choi Application No. 11/096,627 Filed: March 31, 2005 Title: Tooth Path Treatment Plan	:	LETTER

Dear Muhammad Chisti:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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

James M. Heslin
Townsend Townsend and Crew LLP
Two Embarcadero Center
Eight Floor
San Francisco, CA 94111-3834
650-326-2400

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HUAFENG WEN
2117 GOSSAMER AVE
REDWOOD SHORES CA 94064

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Muhammad Chisti, Huafeng Wen, Wonceol :
Choi :
Application No. 11/096,627 : LETTER
Filed: March 31, 2005 :
Title: Tooth Path Treatment Plan :

Dear Huafeng Wen:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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

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WONCHEOL CHOI
745 DAILEY AVE
SAN JOSE CA 95123

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NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Muhammad Chisti, Huafeng Wen, Wonceol :
Choi :
Application No. 11/096,627 : LETTER
Filed: March 31, 2005 :
Title: Tooth Path Treatment Plan :

Dear Woncheol Choi:

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(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, 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

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SEATTLE WA 98111-1208

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JUN 04 2008

OFFICE OF PETITIONS

In re Application of	:	
Kyle M. Hanson, et al.	:	DECISION ON PETITION
Application No. 11/096,630	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: March 29, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 63857.8158.US02	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. 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 1795 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Sherry D. Brinkley
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
11/096,630	03/29/2005	1795	1550	63857.8158.US02	27	4

CONFIRMATION NO. 3831

CORRECTED FILING RECEIPT

45540
PERKINS COIE LLP/SEMITOOL
PO BOX 1208
SEATTLE, WA 98111-1208

OC000000030279459

Date Mailed: 06/03/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kyle M. Hanson, Kalispell, MT;
Thomas L. Ritzdorf, Bigfork, MT;
Gregory J. Wilson, Kalispell, MT;
Paul R. McHugh, Kalispell, MT;

Power of Attorney: The patent practitioners associated with Customer Number 45540

Domestic Priority data as claimed by applicant

This application is a CON of 09/872,151 05/31/2001 PAT 7,264,698
which is a CIP of 09/804,697 03/12/2001 PAT 6,660,137
which is a CON of PCT/US00/10120 04/13/2000
which claims benefit of 60/129,055 04/13/1999
This application 11/096,630
is a CIP of 10/158,220 05/29/2002
which claims benefit of 60/294,690 05/30/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/096,630**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for electrochemical processing of microelectronic workpieces

Preliminary Class

204

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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ROGITZ & ASSOCIATES
750 B STREET
Suite 3120
SAN DIEGO, CA 92101

In re Application of: BLAUM, et al.	)	
Application No. 11/096,638	)	DECISION ON PETITION FOR
Attorney Docket No. HSJ920040198US1	)	SUPERVISORY REVIEW
Filed: 03/31/2005	)	UNDER *37 CFR §1.181*
For: RAID SYSTEM USING REGIONAL	)	
ERROR STATISTICS FOR	)	
REDUNDANCY GROUPING	)	

This is a decision on the petition under 37 CFR § 1.181, filed January 2, 2008, requesting the Commissioner to invoke his supervisory authority to withdraw the final Office action dated November 26, 2007 and to enter the amendment filed November 30, 2007.

The petition is **DISMISSED**.

RECENT PROSECUTION HISTORY

(1) On October 10, 2007, a non-final Office action, rejecting pending claims 1-5 and 7-11 and withdrawing pending claims 6 and 12-20 (due to Applicant's election of restriction – group I), was mailed.

(2) On October 22, 2007, a response to the non-final Office action including remarks was filed (claims 7-11 were amended so as to depend either directly or indirectly from withdrawn claim 6).

(3) On November 7, 2007, a (first) final Office action, rejecting pending claims 1-5 and 7-11, and withdrawing pending claims 6 and 12-20, was mailed.

(4) On November 9, 2007, a response which consisted of remarks requesting clarification of the status of the rejection(s) and pending elected claims was filed.

(5) On November 26, 2007, (second) final Office action, rejecting pending claims 1-5 and withdrawing pending claims 6-20, was mailed.

(6) On November 30, 2007, an amendment and remarks, after final rejection, were filed.

(7) An advisory action was mailed on December 21, 2007, indicating the amendment would not be entered.

(8) On January 2, 2008, the instant petition was filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests withdrawal of the final Office action of November 26, 2007 and entry of the amendment filed November 30, 2007.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706 [R-5] Rejection of Claims, states in part
IV. **RECONSIDERATION OF CLAIMS AFTER REPLY BY APPLICANT**
37 CFR 1.112. Reconsideration before final action.
After reply by applicant or patent owner (§ 1.111 or § 1.945) ***to a non-final action*** and any comments by an inter partes reexamination requester (§ 1.947), ***the application*** or the patent under reexamination ***will be reconsidered and again examined. The applicant***, or in the case of a reexamination proceeding the patent owner and any third party requester, ***will be notified if claims are rejected, objections or requirements made, or decisions favorable to patentability are made, in the same manner as after the first examination*** (§ 1.104). ***Applicant or patent owner may reply to such Office action*** in the same manner provided in § 1.111 or § 1.945, ***with or without amendment***, unless such Office action indicates that it is made final (§ 1.113) or an appeal (§ 41.31 of this title) has been taken (§ 1.116), or in an inter partes reexamination, that it is an action closing prosecution (§ 1.949) or a right of appeal notice (§ 1.953). ***[emphasis added]***

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

§ 706.07(c) Final Rejection, Premature
Any question as to ***prematureness of a final rejection*** should be raised, if at all, while the application is still pending before the primary examiner. This ***is purely a question of practice, wholly distinct from the tenability of the rejection***. It may therefore not be advanced as a ground for appeal, or made the basis of complaint before the Board of Patent Appeals and Interferences. It is reviewable by petition under 37 CFR 1.181.

§ 706.07(d) [R-6] Final Rejection, Withdrawal of, Premature
If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.
The finality of the Office action must be withdrawn while the application is still pending. The examiner cannot withdraw the final rejection once the application is abandoned.
> ***Once the finality of the Office action has been withdrawn, the next Office action may be made final if the conditions set forth in MPEP § 706.07(a) are met. [emphasis added]***

A review of the file record indicates that the (first) final Office action mailed November 7, 2007 does not present a new ground(s) of rejection by the Examiner. However, this Office action appears to improperly treat (on the merits) claims 7-11 which had been amended previously (on October 22, 2007) to depend from a withdrawn claim (claim 6), as stated in the non-final Office action of October 10, 2007. Contrary to that indicated by Petitioner, the final Office action clearly sets forth (and repeats from the non-final Office action of October 10, 2007) the sole ground of rejection (under 35 USC § 101) with respect to the remaining pending (non-withdrawn) claims 1-5. In addition, the Office action explicitly states that "the Examiner withdraws all prior rejection(s) under 35 USC § 112". Petitioner should note that there is no existing requirement that an Examiner state on the record which rejections have been withdrawn. Implicitly, ***unless otherwise noted***, if a rejection has not been repeated from a previous action, that rejection has been withdrawn. The status of rejected claims 1-5 drawn to the elected invention (see September 17, 2007 response to restriction requirement) is clear with merely a cursory review of this final Office action.

In accordance with MPEP § 706, Applicant filed a response for clarification on November 9, 2007, this response was filed without an amendment. In response to the request for clarification filed on November 9, 2007, the Examiner withdrew the finality of November 7, 2007 Office action and issued a new final Office action mailed on November 26, 2007 in accordance with MPEP 706.07(d). In this final Office action, the Examiner clarified the status of claims 7-11 by indicating that the are now withdraw as having been (directly or indirectly) dependent from withdrawn claim 6 (see PTOL-326 and page 2 of the Office action). In addition, the Examiner clarified the pending rejections with respect to claims 1-5 by stating that "the Examiner withdraws all prior rejection(s) under 35 USC § 112 and 35 USC § 102" (see page 2 of the Office action). Finally, the Examiner repeated the claim rejection under 35 USC § 101 with respect to claims 1-5, made initially in the non-final Office action of October 10, 2007.

As clearly set forth in MPEP § 706.07(a) and § 706.07(d) above, a second or subsequent (as a result of a withdrawn final) Office action can again be made final wherein the Examiner repeats the grounds of rejection from the previous Office action. This is in fact, the situation in the instant application prosecution. Accordingly, the finality of the November 26, 2007 Office action is deemed to be proper in accordance with current Office practice and procedures.

CONCLUSION

Accordingly, for the above stated reasons, the petition and request to withdraw the final Office action of November 26, 2007 and to enter the amendment filed November 30, 2007 is **DISMISSED**.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Jack Harvey, Group Director
Technology Center 2100
Computer Architecture, Software, and Information Security

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BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

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MAY 21 2008

OFFICE OF PETITIONS

In re Application of :
Nicolas Hochet et al :
Application No. 11/096,654 :
Filed: April 1, 2005 :
Attorney Docket No. PEGU 0101 PUSA1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 14, 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 May 16, 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 August 17, 2007.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1791 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Joseph M. Lafata
Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, MI 48303

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OFFICE OF PETITIONS

Bryant R. Gold
Laura Haburay Bishop
25129 Rye Canyon Loop
Valencia, CA 91355

In re Application of	:	
Kerry Bradley, et al.	:	
Application No. 11/096,662	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 05-00586 (01)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on October 9, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Vista IP Law Group LLP**
2040 Main Street, 9th Floor
Irvine, CA 92614

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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OFFICE OF PETITIONS

In re Application of	:	
Robert C. Thistle	:	
Application No. 11/096,686	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 760-177 RCE	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 17, 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 Anna-Lisa Gallo on behalf of all attorneys of record who are associated with customer No. 23869. All attorneys/agents associated with the Customer Number 23869 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed to the Robert C. Thistle at the new correspondence address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT C. THISTLE
35 LAURIE LANE
BRIDGEWATER, MA 02324

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/096,686	04/01/2005	Robert C. Thistle	760-177

CONFIRMATION NO. 8056

POWER OF ATTORNEY NOTICE

23869
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

OC000000035407797

Date Mailed: 04/09/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/17/2009.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DEC 23 2005

ROBERT D. VARITZ, P.C.
4915 SE 33RD PLACE
PORTLAND OR 97202

In re Application of	:	
Michael R. Dennis	:	
Serial No.: 11/096,695	:	DECISION ON PETITION
Filed: March 31,2005	:	
For: Non-Resiliency Body-Contact Protective	:	
Helmet Interface Structure	:	

This is in response to the petition applicant filed on October 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, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/04/2010

Applicant	: Raymond C. Kurzweil	: DECISION ON REQUEST FOR
Patent Number	: 7627142	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/096,712	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No. None

Maginot, Moore & Beck
Bank OneTower
111 Monument Circle, Suite 3000
Indianapolis IN 46204

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APR 26 2006

OFFICE OF PETITIONS

In re Application of :
Jeno Tihanyi :
Application No. 11/096,716 :
Filed: March 31, 2005 :
Attorney Docket No. 1890-0230 :
Title: REVERSE BLOCKING :
SEMICONDUCTOR COMPONENT WITH :
CHARGE COMPENSATION :

DECISION ON PETIITON
UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed January 3, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed May 10, 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 July 11, 2005.

With this petition, Petitioner has submitted the petition fee, the filing fee, the search fee, the examination fee, a

1 A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

declaration, the fee which is associated with the late submission of the same, and the proper statement of unintentional delay. A terminal disclaimer is not required.

As such, this petition under 37 C.F.R. §1.137(b) is **GRANTED**.

The Office of Initial Patent Examination will be made aware 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.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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1250 CONNECTICUT AVENUE, N.W.
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WASHINGTON DC 20036-2657

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OFFICE OF PETITIONS

In re Application of	:	
Tao **Zhang** et al.	:	
Application No. 11/096,721	:	DECISION ON PETITION
Filed: April 01, 2005	:	
Attorney Docket No. 3119-113	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-final Office action mailed June 08, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 09, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00 and (3) a statement of unintentional delay. Accordingly, the reply to the Non-final Office action of February 20, 2008 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 2618 for appropriate action by the Examiner in the normal course of business on the reply received.

David A. Bucci
Petitions Examiner
Office of Petitions

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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON MA 02109-2881

In re Application of	:	
Bonnet, et al.	:	
Application No. 11/096,725	:	ON APPLICATION FOR
Filed: April 1, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. KLB-001	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) AND § 37 C.F.R. § 1.705(b)" filed October 22, 2009, which is properly treated under 37 CFR 1.705(b). Applicants submits that the patent term adjustment to be indicated on the patent is one hundred fifteen (115) days, not twenty-eight (28) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on June 27, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

Mail Date: 04/21/2010

Applicant	: John Lamping	: DECISION ON REQUEST FOR
Patent Number	: 7636714	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,726	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Michael P. Harrold, et al.	:	
Application No. 11/096,731	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 5168US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 25, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, PA has been revoked by the assignee of the patent application on May 3, 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: DEBORAH A. MOJARRO
APPLERA CORPORATION APPLIED
BIOSYSTEMS DIVISION
850 LINCOLN CENTRE DRIVE M/S4232-2
FOSTER CITY, CA 94404

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PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

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OFFICE OF PETITIONS

In re Application of	:	
Jeffrey E. Shindelman, et al.	:	
Application No. 11/096,761	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 52325-8021.US00	:	FROM RECORD
	:	

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 26, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Perkins Coie, LLP has been revoked by the assignee of the patent application on April 18, 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: WILSON, SONSINI GOODRICH & ROASTI
C/O MAYA SKUBATCH
650 PAGE MILL ROAD
PALO ALTO, CA 94304

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65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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OFFICE OF PETITIONS

In re Application of	:	
Glossner et al.	:	
Application No. 11/096,767	:	DECISION GRANTING
Filed: April 1, 2005	:	STATUS UNDER
For: PROCESSOR HAVING COMPOUND	:	37 CFR 1.47(a)
INSTRUCTION AND OPERATION	:	
FORMATS	:	

This is in response to a Petition Under 37 CFR 1.47, filed November 14, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Erdem Hokenek, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MR. ERDEM HOKENEK
3426 FAIRVIEW COURT
YORKTOWN HEIGHTS, NY 10598

COPY MAILED

JAN 06 2006

OFFICE OF PETITIONS

In re Application of	:	
Glossner et al.	:	
Application No. 11/096,767	:	LETTER
Filed: April 1, 2005	:	
For: PROCESSOR HAVING COMPOUND	:	
INSTRUCTION AND OPERATION	:	
FORMATS	:	

Dear Mr. Hokenek:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER, PC
65 LIVINGSTON AVENUE
ROSELAND, NJ 07068

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

6/6/07

PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON CT 06484-8000

In re Application of:
BRAUNEIS, AXEL et al
Serial No.: 11/096,789
Filed: Apr. 1, 2005
Docket: F-864
Title: DRIVE APPARATUS FOR A MAIL-PROCESSING SYSTEM

DECISION ON PETITION TO WITHDRAW OF HOLDING OF FINALITY

This is a decision on the petition filed on Jan.12, 2007 to withdraw the finality of the Office Action of Nov. 16, 2006. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **Granted**.

In the petition, the applicant requested the examiner to withdraw the finality of the Office action mailed on Nov. 16, 2006. In support of his petition, the applicant argues that the final Office action was improper because the examiner failed to treat dependent claims 4-6 filed with the preliminary amendment on Apr. 1, 2005.

After a careful review of the file history, the preliminary amendment adding dependent claims 4-6 was never acknowledged by the examiner. The examiner in fact never treated the dependent claims 4-6 on the merits throughout the entire prosecution. This omission is regretted.

Under the circumstances, the relief the applicant requested, namely the withdrawal of the finality of the Nov. 16, 2006 Office Action, is granted. The examiner has been directed to enter the amendment after final filed on Jan. 12, 2007 and issue an Office action on the merits including claims 4-6.

Such an Office action was mailed on Jan. 31, 2007. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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JUN 23 2008

OFFICE OF PETITIONS

In re Application of :
Lizak :
Application No. 11/096,802 : ON PETITION
Filed: April 1, 2005 :
Attorney Docket No. 66479-0026// NNA2-393-A :

This is a decision on the petition under 37 CFR 1.137(b), filed February 7, 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 September 28, 2007. Accordingly, this application became abandoned on December 29, 2007. A Notice of Abandonment was mailed on January 24, 2008.

Applicant has submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85(b), an acceptable statement of the unintentional nature of the delay in responding to the September 28, 2007 Notice of Allowance and Fee(s) Due, and the petition fee.

Regarding the statement of delay: 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. A courtesy copy of this decision is being mailed to practitioner. However, any future correspondence regarding this application will be mailed to the address of record.

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

CC: ANDREW R. BASILE, JR.
YOUNG BASILE HANLON
MACFARLANE & HELMHOLDT, P.C.
3001 WEST BIG BEAVER RD., SUITE 624
TROY MI 48084-3107

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

MAY 12 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chhabra, et al. :
Application No. 11/096,806 :
Filed: March 31, 2005 :
Attorney Docket No. 42P20856 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned October 22, 2008 for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 21, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed February 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and required fee, and the submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Technology Center AU 2446 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.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/096,812	03/31/2005	Ronald A. Achs	DOMP-1-1006	4533

25315 7590 02/04/2008
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

EXAMINER
WONG, LESLIE A

ART UNIT	PAPER NUMBER
1794	

MAIL DATE	DELIVERY MODE
02/04/2008	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.

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
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.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/096,812
Filing Date	March 31, 2005
First Named Inventor	Ronald Achs
Art Unit	1761
Examiner Name	N/A
Attorney Docket Number	DOMP-1-1006

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved 2-4-08
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 25315

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: Incompatible Relationship with Client.

CORRESPONDENCE ADDRESS

1. [ ] The correspondence address is NOT affected by this withdrawal.
2. [ ] Change the correspondence address and direct all future correspondence to:

[ ] The address associated with Customer Number:

OR

[x] Firm *or* Individual Name	Ronald Achs				
Address	180 North Stetson Suite 4525				
City	Chicago	State	IL	Zip	60601
Country	United States				
Telephone		Email	rachs@dominionnutrition.com		
Signature	Lawrence D Graham				
Name	Lawrence D. Graham	Registration No.	40,001		
Date	May 18, 2007	Telephone No.	206.381.3304		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IRVING KESCHNER
21535 HAWTHORNE BOULEVARD, SUITE 385
TORRANCE CA 90503

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FEB 07 2007

OFFICE OF PETITIONS

In re Application of	:	
SASAKI, Akira	:	
Application No. 11/096,815	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. Sasaki-01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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 28, 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 June 29, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks the late filing oath or declaration surcharge of $65 as set forth in 37 CFR 1.16(f) for a small entity in compliance with 37 CFR 1.27.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IRVING KESCHNER
21535 HAWTHORNE BOULEVARD, SUITE 385
TORRANCE CA 90503

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DEC 1 2 2007

OFFICE OF PETITIONS

In re Application of :
SASAKI, Akira :
Application No. 11/096,815 :
Filed: March 31, 2005 :
Attorney Docket No. Sasaki-01 :

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed February 20, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 28, 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 June 29, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the late filing oath or declaration surcharge of $65; (2) the petition fee of $750 (previously paid on Sept 5, 2006); and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Monica Graves at (571) 272-7253.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Dublin et al. : ON PETITION
Application No. 11/096,834 :
Filed: March 31, 2005 :
Attorney Docket No. P20502.00 :

This is in response to the petition under 37 CFR 1.47, which is being treated as a petition under 37 CFR 1.42.

The petition under 37 CFR 1.42 is **DISMISSED**.

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 1.42" and should address the deficiencies noted below. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

On March 31, 2005, applicant filed the above-identified application without an executed oath or declaration. Accordingly, on April 28, 2005, the Office mailed applicant a "Notice to File Missing Parts of Nonprovisional Application" requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month extendable period for reply.

On June 28, 2005, applicant filed the present petition and a Combined Declaration and Power of Attorney signed by three of the four joint inventors. In the petition, applicant requested that the Office accept the declaration in lieu of the signature of inventor, Eduard H. Villaseca, who passed away on October 16, 2001. Applicant explained that the Court appointed a Special Administrator, Bonnie Dougherty of Securian Trust Company, N.A., because no living relatives were located. Applicant stated that Ms. Dougherty was

discharged on August 5, 2002, after the Final Account of decedent Villaseca's estate was settled. A copy of the Order Allowing Final Account and Discharging Special Administrator, as well as a copy of Villaseca's death certificate accompany the petition.

The Office notes: "[i]n case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42. Moreover, Section 409.01(c) of the Manual of Patent Examining Procedure states: "When an administrator or executor has performed his or her functions and has been discharged and it is desired to make an application for an invention of the deceased, it is necessary for the administrator or executor to take out new letters of administration in order that he or she may file a new application for an invention of the deceased inventor."

Accordingly, the declaration submitted with the present petition is unacceptable because the Special Administrator did not make the declaration on behalf of Villaseca.

37 CFR 1.64(b) states that in instances where the person making the oath or declaration is not the inventor (as in a declaration submitted pursuant to 37 CFR 1.42),

> … the oath or declaration shall state the relationship of the person to the inventor, and upon information and belief, the facts which the inventor is required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

On renewed petition, applicant must submit a declaration in compliance with both 37 CFR 1.64(b) and 37 CFR 1.63. Specifically, the declaration must state the relationship of the legal representative (executor or administrator) to the deceased inventor, be signed by the legal representative, as well as identify his or her citizenship, residence, and mailing address in compliance with 37 CFR 1.64(b). In addition, the declaration must state each inventor (including Villaseca) by name, citizenship, residence, and mailing address in compliance with 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE SUITE 1600
CHICAGO, IL 60603

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OFFICE OF PETITIONS

In re Application of
Shintani and Toyoshima
Application No. 11/096,865
Filed: April 1, 2005
Attorney Docket No. 81446/7114

DECISION GRANTING PETITION

This is a decision on the petition filed June 27, 2005, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of March 31, 2005, rather than the presently accorded filing date of April 1, 2005.

Petitioner alleges that the application was deposited with the Express Mail Service on March 31, 2005. In support of the allegation, the petition is accompanied by a copy of the Express Mail label with a tracking number EV495481796US showing a "date-in" of March 31, 2005. The tracking number cited is the same number found on the application transmittal sheet that accompanied the original application papers. The evidence is convincing that the application papers were deposited on March 31, 2005.

In view of the above, the petition is granted. The new filing date for the above-cited application is March 31, 2005.

The address as cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address as cited on the petition, all future correspondence will be solely to the address of record until appropriate written instructions to the contrary are received.

The Office of Initial Patent Examination will further process the application with a filing date of March 31, 2005, and issue a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571)272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Thomas F. Lebens
Sinsheimer, Schiebelhut & Baggett
1010 Peach Street
PO Box 31
San Luis Obispo, CA 93406

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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December 3, 2008

Cary W. Brooks
P. O. Box 4390
Troy, MI 48099-4390

Patent No.: 7,321,157 B2
Application No.: 11/096,870
Inventor(s): Lidong Chen, et al.
Issued: January 22, 2008
Title: **$COSB_3$-BASED THERMOELECTRIC DEVICE FABRICATION 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) 305-8309 or (703) **308-9390 ext 113**

vt

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
11/096,877	03/31/2005	2873	1360	211A 3698	28	5	1

CONFIRMATION NO. 7127

CORRECTED FILING RECEIPT

OC000000016086167

003713
KODA & ANDROLIA
2029 CENTURY PARK EAST
SUITE 1140
LOS ANGELES, CA 90067

Date Mailed: 05/23/2005

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)

Akira Nakamura, Kawaguchi-shi, JAPAN;

Assignment For Published Patent Application

Enplas Corporation

Power of Attorney:

William Androlia–27177
H Koda–27729

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-128162 04/23/2004

If Required, Foreign Filing License Granted: 04/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/096,877

Projected Publication Date: 10/27/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Imaging lens system

Preliminary Class

359

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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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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FEB 18 2010

OFFICE OF PETITIONS

In re
Rebeski, et al.
Application No. 11/096,904
Filed: April 1, 2005
Patent No. 7,642,088
Issued: January 5, 2010

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 $755 for the issue 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

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Alexandria, VA 22313-1450
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VIDAS ARRETT & STEINKRAUS PA
SUITE 400 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

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MAR 04 2010

In re
Rebeski, et al.
Application No. 11/096,904
Filed: April 1, 2005
Patent No. 7,642,088
Issued: January 5, 2010

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 $755 for the issue 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

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CHERNOFF, VILHAUER, MCCLUNG & STENZEL
1600 ODS TOWER
601 SW SECOND AVENUE
PORTLAND, OR 97204-3157

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JUN 09 2008

In re Application of	:	
HISER, Lloyd G.	:	
Application No. 11/096,915	:	DECISION ON PETITION
Filed: April 2, 2005	:	TO WITHDRAW
Attorney Docket No. **8612.0001**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 17, 2007

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kevin L. Russell 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 Lloyd G. Hiser at the address indicated below.

The application became abandoned for failure to respond to the non-final office action mailed March 23, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **LLOYD G. HISER**
86881 LOWER FOUR MILE LANE
BANDON, OR 97411

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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RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY NY 11560

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NOV 23 2005

OFFICE OF PETITIONS

In re Application of
Hokenek, et al.
Application No.: 11/096,917
Filed: April 1, 2005
Attorney Docket No.: 18164-6
For: MULTITHREADED PROCESSOR WITH MULTIPLE CONCURRENT PIPELINES PER THREAD

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed November 14, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on April 1, 2005 without an executed declaration. On April 28, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application requiring applicants to submit an executed oath/declaration and a surcharge for its late filing within an extendable two month period from the mail date of the Notice.

In response, on November 14, 2005, petitioners timely filed a request for a 5 month extension of time and required fee, a declaration executed by 3 of 4 joint inventors, the surcharge, the instant petition and petition fee. The petition is accompanied by a declaration by Attorney James F. Dobrow, who explains the non-signing inventor, Erdem Hokenek was mailed a copy of the application and declaration on May 17, 2005, but refused to sign the enclosed declaration in a letter dated May 21, 2005.

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 of $200, and

(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration.

As stated in MPEP 409.03(d), "When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts."

Petitioners are requested to submit the May 21, 2005 letter in a reconsideration petition.

Regarding fees, petitioners' deposit account will be charged the required $200.00 Rule 47 petition fee in due course.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

cc: JAMES F. DOBROW
DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

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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DOCKET ADMINISTRATOR
LOWENSTEIN SANDLER PC
65 LIVINGSTON AVENUE
ROSELAND NJ 07068

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MAR 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Hokenek, et al. :
Application No. 11/096,917 : ON PETITION
Filed: April 1, 2005 :
Attorney Docket No. 18164-6 :
For: MULTITHREADED PROCESSOR
WITH MULTIPLE CONCURRENT
PIPELINES PER THREAD

This is in response to the reconsideration petition under 37 CFR 1.47(a), filed January 23, 2006.

The petition is **GRANTED.**

Petitioners have shown that the non-signing inventor, Erdem Hokenek, has expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration by Attorney James F. Dobrow explains that Mr. Hokenek was mailed a copy of the application and declaration on May 17, 2005. Mr. Hokenek refused to sign the declaration in a letter to Attorney Joseph B. Ryan dated May 21, 2005. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. The $200.00 petition fee has been charged to deposit account no. 50-1358.

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 the mailing of this decision, the application will be forwarded to Technology Center Art Unit 2183 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

Mail Date: 04/20/2010

Applicant	: Imre J. Dancs	: DECISION ON REQUEST FOR
Patent Number	: 7589340	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **961** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

RYAN, MASON & LEWIS, LLP
90 FOREST AVENUE
LOCUST VALLEY NY 11560

In re Application of	:
Hokenek, et al.	: DECISION GRANTING STATUS
Application No. 11/096,921	: UNDER 37 CFR 1.47(a)
Filed: April 1, 2005	:
Atty. Dkt. No.: 18164-3	:
For: PROCESSOR HAVING PARALLEL	:
VECTOR MULTIPLY AND REDUCE	:
OPERATIONS WITH SEQUENTIAL	:
SEMANTICS	:

This decision is in response to the petition under 37 CFR 1.47(a), filed November 14, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Erdem Hokenek has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Erdem Hokenek
3426 Fairview Court
Yorktown Heights, New York 10598

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JAN 0 4 2006

OFFICE OF PETITIONS

In re Application of	:
Hokenek, et al.	:
Application No. 11/096,921	: LETTER
Filed: April 1, 2005	:
Atty. Dkt. No.: 18164-3	:
For: PROCESSOR HAVING PARALLEL	:
VECTOR MULTIPLY AND REDUCE	:
OPERATIONS WITH SEQUENTIAL	
SEMANTICS	

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

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In re Application of	:	
David A. Wink et al	:	
Application No. 11/096,924	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 404812000401	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 2009.

The request is **APPROVED**.

The request was signed by Mika Mayer on behalf of the practitioners of record associated with Customer Number 25226.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to inventor David A. Wink 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: David A. Wink
21000 Leitersburg Pike
Hagerstown, MD 21742

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
11/096,924	03/31/2005	David A. Wink	404812000401

CONFIRMATION NO. 8233

POWER OF ATTORNEY NOTICE

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

OC000000039656311

Date Mailed: 01/19/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

- 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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/096,924	03/31/2005	David A. Wink	404812000401

CONFIRMATION NO. 8233

POA ACCEPTANCE LETTER

David A. Wink
21000 Leitersburg Pike
Hagerstown, MD 21742

OC000000039656327

Date Mailed: 01/19/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Gilad Bracha	: DECISION ON REQUEST FOR
Patent Number	: 7574700	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,933	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

Mail Date: 04/20/2010

Applicant	: Mark E. Wefler	: DECISION ON REQUEST FOR
Patent Number	: 7643734	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,934	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Volkert A. Zeijlemaker	: DECISION ON REQUEST FOR
Patent Number	: 7577480	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,943	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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THE SONI LAW FIRM
55 S. LAKE AVE SUITE 720
PASADENA CA 91101

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OFFICE OF PETITIONS

In re Application of :
Carl Cetera :
Application No. 11/096,961 : DECISION ON PETITION
Filed: March 31, 2005 :
Attorney Docket No. SS-149U :

This is a decision on the petition under 37 CFR 1.137(b), filed April 11, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 6, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on December 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of September 6, 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 $510 extension of time fee submitted with the petition on April 11, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary. In a supplemental response received on June 22, 2007, petitioner states that a $510 extension of time fee was inadvertently paid on April 11, 2007. Therefore, petitioner requests that $175 of this fee be applied towards the additional claims added by the amendment filed on April 11, 2007 and refund the balance of $335 to his credit card. As requested, $175 will be applied towards the additional claims

fee and the balance of $335 will be refunded to petitioner's credit card.

This application is being referred to Technology Center AU 3677 for appropriate action in the normal course of business on the reply received April 11, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Paper No.

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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AUG 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Xuesong Jiang	:	DECISION ON
Application No. 11/096,967	:	APPLICATION FOR
Filed: 04/01/2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
2550/A53	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed on April 4, 2008. Applicant requests that the Patent Term Adjustment for the above-identified patent be increased from zero (0) days to forty (40) days.

The application for patent term adjustment patent is **DISMISSED**.

On February 4, 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 zero (0) days.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of seventy-four (74) days resulting from 74 days of delay in mailing a non-final office action on August 14, 2006, fourteen (14) months and seventy-four (74) days after the filing date of the application The patent term adjustment was reduced by one hundred twenty-seven (127) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). Specifically, the patent term adjustment was reduced by two (2) days under 37 CFR 1.704(b) for the filing of a response on November 16, 2006, to a non-final Office action on August 14, 2006, which was three (3) months and two (2) days after the mailing of the non-final Office action, by thirty-two (32) days for the filing of an amendment on May 14, 2007, which

was filed three (3) months and thirty-two (32) days after the mailing of a non-final Office action on January 12, 2007, and by ninety-three (93) days for the filing of an amendment in compliance with 37 CFR 1.113(c) on December 17, 2007, three (3) months and ninety-three (93) days after the mailing of a final Office action on June 15, 2007.

The subject application for patent term adjustment was timely filed on April 4, 2008, concurrently with the issue fee.

Applicant states that the application is not subject to a terminal disclaimer.

Applicant asserts that the ninety-three (93) day period of delay is not warranted because the examiner had misstated the allowable subject matter in the final office action mailed on June 15, 2007. Specifically, petitioner asserts that an amendment after final rejection was filed on August 17, 2007, addressing the examiner's rejections in the final office action. The examiner mailed an advisory action on October 18, 2007, however, stating that the amendment failed to place the application in condition for allowance. Applicant states he asked the examiner during a telephone interview, held shortly after the mailing of the advisory action, to cancel Claims 1-4, 6-9, 11, and 13-20, but that the examiner advised counsel that a request for continued examination should be filed. Applicant's attorney states he "felt this should not have been necessary" and instead contacted the examiner's supervisor.

Applicant subsequently filed a second amendment after final rejection on December 17, 2007, three (3) months and 93 days after the mailing of the final Office action.

37 CFR 1.704(b) states that 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.

37 CFR 1.113(c) states that a reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form. Simply put, the period for determining patent term adjustment runs from the mailing of the final office action until the filing of a reply in compliance with 37 CFR 1.113(c).

Notwithstanding applicant's assertion that the final office action mailed on June 15, 2007, did not properly or completely state the allowable subject matter or explain what action needed to be taken to place the application in condition for allowance, a review of the record reveals that a reply in compliance with 37 CFR 1.113(c) was not filed until December 17, 2007, three (3) months and 93 days after the mailing of the final office action.

Applicant's assertion that he should not be charged patent term adjustment for not timely filing a reply in compliance with 37 CFR 1.113(c) is not persuasive. The response filed on August 17, 2007 did not place the application in condition for allowance. Applicant did not file a proper reply until December 17, 2007, and therefore is properly assessed a reduction in patent term adjustment for filing a proper reply three (3) months and 93 days after the mailing of the final rejection.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of 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 Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON MA 02110-1618

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MAY 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,428,157	:	
Issued: September 23, 2008	:	DECISION ON
Application No. 11/096,967	:	APPLICATION FOR
Filed: April 1, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
2550/A53	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed on September 18, 2008. Applicant request reconsideration of the decision of August 13, 2008, in that the patent term adjustment determination under 35 U.S.C. § 154(b), as indicated at the time of the mailing of the notice of allowance, be corrected from zero (0) days to forty (40) days.

The request for reconsideration of the decision of August 13, 2008 is granted to the extent that the decision of August 13, 2008 has been reconsidered; however, the request for reconsideration is **DISMISSED** with respect to making a change in the patent term adjustment under 35 U.S.C. § 154(b) of zero (0) days indicated in the decision of August 13, 2008.

Prior to this decision being rendered, on September 23, 2008, the above-identified application matured into U.S. Patent No. 7,428,157. The Patent issued with a revised Patent Term Adjustment of 48 days.

For the reasons stated herein, the patent term adjustment indicated in the patent is correct on the issued patent.

Patentees are given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under 37 CFR 1.136.

BACKGROUND

On February 4, 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 zero (0) days.

The Office initially determined a patent term adjustment of zero (0) days based on an adjustment for PTO delay of seventy-four (74) days resulting from 74 days of delay in mailing a non-final office action on August 14, 2006, fourteen (14) months and seventy-four (74) days after the filing date of the application The patent term adjustment was reduced by one hundred twenty-seven (127) days of applicant delay pursuant to 37 C.F.R. § 1.704(b). Specifically, the patent term adjustment was reduced by two (2) days under 37 CFR 1.704(b) for the filing of a response on November 16, 2006, to a non-final Office action on August 14, 2006, which was three (3) months and two (2) days after the mailing of the non-final Office action; by thirty-two (32) days for the filing of an amendment on May 14, 2007, which was filed three (3) months and thirty-two (32) days after the mailing of a non-final Office action on January 12, 2007, and by ninety-three (93) days for the filing of an amendment in compliance with 37 CFR 1.113(c) on December 17, 2007, three (3) months and ninety-three (93) days after the mailing of a final Office action on June 15, 2007.

On April 4, 2008, the initial application for patent term adjustment was filed, requesting correction of the initial determination of patent term adjustment from zero (0) days to forty (40) days.

On August 13, 2008, a Decision on Application for Patent Term Adjustment was mailed, stating that the initial determination of Patent Term Adjustment at the time of the mailing of the notice of allowance is correct.

On September 18, 2008, the subject request for reconsideration of the decision on application for patent term adjustment was filed.

On September 23, 2008, the above-identified application matured into U.S. Patent No. 7,428,157. The Patent issued with a revised Patent Term Adjustment of 48 days. This period of

adjustment was based on the following periods of adjustment: (i) pursuant to 37 CFR 1.703(a), a period of adjustment of 50 days was entered for Office delay in issuing the patent after payment of the issue fee and satisfaction of all outstanding requirements, and (ii) pursuant to 37 CFR 1.703(b), a period of adjustment of 51 days was entered for Office delay in issuing the patent three (3) years and 51 days after the date on which the application was filed under 35 U.S.C. § 111(a). The relevant PTA calculation is 175 (74+50+51) days of Office delay and 127 days of applicant delay, resulting in 48 days of patent term adjustment.

Patentee states that the application is not subject to a terminal disclaimer.

OPINION

Patentee again asserts that the ninety-three (93) day period of reduction in patent term adjustment for the filing of an amendment after final rejection on December 17, 2007, three (3) months and 93 days after the mailing of a final Office action on June 15, 2007, is not warranted because the examiner had misstated the allowable subject matter in the final office action mailed on June 15, 2007.

Specifically, patentee notes that the final Office action mailed on June 15, 2007, stated that claims 4-5, 9-10, and 15-16 would be allowable if rewritten in independent form including all of the limitations of the base claim and intervening claims.

Furthermore, patentee asserts that on August 17, 2007, within three (3) months of the date the final office action was filed, an amendment after final rejection was mailed which amended the claims as suggested in the final Office action.

Patentee notes that an Advisory Action was then mailed, stating that claims 1-4, 9, 11, and 13-20 were rejected, and that claims 21-29 were allowed. Patentee asserts that the examiner "actually intended for claims 5, 10, and 16 to be allowable only in combination with claims 4, 9, and 15, respectively, although this was not reflected in the Examiner's statement of allowable subject matter."

As such, patentee asserts that the delay was "a direct result of the Examiner's erroneous statement of allowable subject matter."

37 CFR 1.704(b) states that 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.

37 CFR 1.113(c) states that a reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form. Simply put, the period for determining patent term adjustment runs from the mailing of the final office action until the filing of a reply in compliance with 37 CFR 1.113(c).

Notwithstanding patentee's assertion that the final office action mailed on June 15, 2007, did not properly or completely state the allowable subject matter or explain what action needed to be taken to place the application in condition for allowance, a review of the record reveals that a reply in compliance with 37 CFR 1.113(c) was not filed until December 17, 2007, three (3) months and 93 days after the mailing of the final office action.

Patentee's assertion that he should not be charged patent term adjustment for not timely filing a reply in compliance with 37 CFR 1.113(c) is not persuasive. The response filed on August 17, 2007 did not place the application in condition for allowance. See Advisory Action mailed on October 18, 2007.

The alleged error in the final Office action is not determinative. Rather, what is controlling is that patentee has not overcome the conclusion that a response in compliance with

37 CFR 1.113(c) was not filed until December 17, 2007. Accordingly, pursuant to 37 CFR 1.704(b), the reduction in patent term adjustment is warranted and will not be removed.

CONCLUSION

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance was properly indicated in the initial Determination of Patent Term Adjustment as zero (0) days. Further, the revised Patent Term Adjustment is properly indicated as 48 days on the face of the issued patent.

The $200.00 fee set forth in 37 CFR 1.18(e) was submitted on request for reconsideration of patent term adjustment filed September 18, 2008. No additional fees are required on request for reconsideration of the decision on the application for patent term adjustment.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Treyz Law Group
870 Market Street, Suite 984
San Francisco, CA 94102

Mail Date: 04/21/2010

Applicant	: John Bui	: DECISION ON REQUEST FOR
Patent Number	: 7589584	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 & SHERIDAN, L.L.P.
3040 POST OAK BLVD.
SUITE 1500
HOUSTON, TX 77056

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DEC 15 2005

OFFICE OF PETITIONS

In re Application of:	:	
Nowak et al.	:	
Application No. 11/096,986	:	
Filed: April 1, 2005	:	DECISION DISMISSING
Title of Invention:	:	PETITION UNDER
METHOD TO REDUCE PLASMA DAMAGE	:	37 CFR 1.47
DURING CLEANING OF SEMICONDUCTOR	:	
WAFER PROCESSING CHAMBER	:	

This decision is in response to the Petition FOR Filing Patent Application When one Joint Inventor Can Not be Found or Refuses to Execute Papers Under 37 CFR 1.47(a), filed November 28, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", 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 filed April 1, 2005, without an executed oath or declaration. Applicant files the instant petition and provides, in relevant part, that a certified letter, including a declaration and assignment, were delivered to the nonsigning inventor and returned with a forwarding address. Subsequently, a letter enclosing the Declaration and Assignment were mailed to the nonsigning inventor to the forwarding address. A receipt for the certified letter was returned; however, the documents were not returned.

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; (4) a statement of the last known address of the non-signing inventor(s). Applicant lacks item (4) as set forth above.

As to item (1), Applicant has failed to demonstrate that the nonsigning inventor refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings). (Emphasis supplied).

> 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 non-signing 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 CFR 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.

MPEP 409.03(d).

Applicant must send a copy of the application to the nonsigning inventor before a refusal may be alleged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD.
SUITE 1500
HOUSTON, TX 77056

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of:	:	
Nowak et al.	:	
Application No. 11/096,986	:	
Filed: April 1, 2005	:	DECISION GRANTING
Title of Invention:	:	PETITION UNDER
METHOD TO REDUCE PLASMA DAMAGE	:	37 CFR 1.47
DURING CLEANING OF SEMICONDUCTOR	:	
WAFER PROCESSING CHAMBER	:	

This is in response to a Request for Reconsideration of Petition Under 37 CFR 1.47(a), filed February 17, 2006, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Petitioner has shown that the non-signing inventor, Brian Hopper, refuses to join in the application.

As provided in Rule 1.47(a), this Office will forward notice of this application's filing to the non-signing inventor at the addresses given in the Petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being referred to the Office of Initial Patent Examination for continued processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MR. BRIAN HOPPER
2211 LATHAM STREET
APT. 22
MOUNTAIN VIEW, CA 94040

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MAR 30 2006

OFFICE OF PETITIONS

In re Application of:	:	
Nowak et al.	:	
Application No. 11/096,986	:	
Filed: April 1, 2005	:	LETTER
Title of Invention:	:	
METHOD TO REDUCE PLASMA DAMAGE	:	
DURING CLEANING OF SEMICONDUCTOR	:	
WAFER PROCESSING CHAMBER	:	

Dear Mr. Hopper:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Attorney
Office of Petitions

cc: PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BLVD.
SUITE 1500
HOUSTON, TX 77056

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Leo A. Eger, et al.	:	
Application No. 11/096,990	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 56035/314613	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 4, 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 declaration statement signed by Leo A. Eger. 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 2809 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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LEGAL PATENT RECORDS CENTER
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4417 LANCASTER PIKE
WILMINGTON DE 19805

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JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Marin, et al.	:	
Application No. 11/096,996	:	ON PETITION
Filed: April 1, 2005	:	
Attorney Docket No. TK3895USNa	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 27, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed February 26, 2009. This Notice set a statutory period for reply of three (3) months for issue fee transmittal. No issue fee having been received, the application became abandoned on May 27, 2009. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Scott Cohen	: DECISION ON REQUEST FOR
Patent Number	: 7574038	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/096,998	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Nov-05

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:
MacInnes et al.	:
Application No. 11/097,028	: DECISION GRANTING PETITION
Filed: 1 April, 2005	:
Atty Dckt No. 54470/SAH/B600	:

This is a decision in reference to the petition filed on 18 July, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 1 April, 2005, rather than the currently-accorded filing date of 31 March, 2005.

The petition is **granted**.

Petitioners assert that the application was deposited in Express Mail Service on 1 April, 2005. In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 1 April, 2005, petitioners have supplied a copy of a U.S. Postal Service Pickup Service Statement for Express Mail, Priority Mail, or Parcel Post bearing, *inter alia*, Express Mail Label No. EV351237548US (the same Express Mail number found on the certificate of express mail filed with the Provisional Application for Patent Cover Sheet accompanying the original application papers located in the official file). The USPS Service Statement also bears the signature of a USPS employee, and in the "Date of Pickup" block, a date of "4/1/5" has been entered. Additionally, petitioners have provided a copy of a printout from the USPS's Intranet Track/Confirm database showing that Express Mail Item EV351237548US was "enroute" on 1 April, 2005.

As such, the showing of record is that the correct date of deposit in Express Mail is 1 April, 2005.

In view of the above, the petition is granted. No fee is required and none has been charged.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 1 April, 2005, and for issuance of a corrected Filing Receipt.

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
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Alexandria, VA 22313-1450
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VIRGINIA P. SHOGREN, P.C.
435 W. BELL STREET
SUITE A
SEQUIM WA 98382

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OFFICE OF PETITIONS

In re Application of	:	
Langford, Marlynn J.	:	
Application No. 11/097,030	:	ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. 5101-001	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 31, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, Marlynn J. Langford. 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 Publishing Division for processing into a patent.

Liana C. Walsh
Liana Chase-Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE MAXHAM FIRM
9330 SCRANTON ROAD, SUITE 350
SAN DIEGO CA 92121

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Earl Robinson, et al.	:	
Application No. 11/097,042	:	DECISION ON PETITION
Filed: March 31, 2005	:	TO WITHDRAW
Attorney Docket No. 2799-5	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 25, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***the assignee no longer has need for our services and so has stated***, do not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The previous notices mailed on May 1, 2008 has been vacated, they were processed and mailed in error.

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: **ARCOA Industries, Inc.**
130 Bosstick Boulevard
San Marcos, CA 92069

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

SEAGATE TECHNOLOGY C/O MOFO SF
425 MARKET ST.
SAN FRANCISCO, CA 94105

In re Application of	:	
Troy M. Herndon, et al.	:	
Application No. 11/097,050	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 146712013200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed May 9, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Seagate Technology C/O MOFO SF 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

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. None

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FEB 16 2007

OFFICE OF PETITIONS

CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

In re Application of	:	
Dennis J. O'Rear	:	
Application No. 11/097,072	:	DECISION ON PETITION
Filed: March 31, 2005	:	UNDER 37 C.F.R. §1.181(A)
Attorney Docket No.: G-0159	:	
Title: GRANULAR SOLID WAX	:	
PARTICLES	:	

This is a decision on the petition filed on October 24, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed February 1, 2006, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 2, 2006. A notice of abandonment was mailed on October 6, 2006.

Petitioner's representative has alleged that a response was timely submitted.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.134, time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. §1.135, Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

M.P.E.P. §503 sets forth, in pertinent part:

If a receipt for 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. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard. >Users are reminded that they are solely responsible for placing the proper postage on self-addressed postcards that are submitted to the USPTO for the purpose of obtaining a receipt for correspondence being filed in the USPTO. Users should check with the USPS regarding postage and what size cards are acceptable to the USPS. Any return receipt postcard that does not contain sufficient postage or is not acceptable may not be delivered by the USPS to the address provided on the postcard, and, if returned to the USPTO, may be discarded.

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.

ANALYSIS

A Notice to File Missing Parts of Nonprovisional Application (first notice) was mailed on May 26, 2005, and set a two-month period for reply. The first notice indicated that the application had been filed without an oath or declaration, and that either an oath or a declaration, along with the surcharge associated with the late submission of the same, would be required.

On February 1, 2006, another Notice to File Missing Parts of Nonprovisional Application (second notice) was mailed, withdrawing the first notice and indicating that the oath or declaration was missing. This second notice set a two-month period for reply.

With the present petition, Petitioner's representative has alleged that a response was submitted on June 22, 2005 (in response to the first notice), and has included a copy of the response which was purportedly submitted to the Office on June 22, 2005. The response does not contain a certificate of mailing. However, Petitioner's representative has further provided a postcard receipt which indicates that a "combined declaration and power of attorney," a "notice for missing parts transmittal," "assignment papers," and a "certificate of mailing" were received in the Office on June 27, 2005. It is noted that Office records reveal that on this same date, the $130 surcharge was received.

As such, the first notice was mailed on May 26, 2005, and a response was timely submitted to the Office on June 22, 2005. However, a second notice was mailed on February 1, 2006, and it does not appear that Petitioner's representative took any action in response to this notice.

The second notice set a two-month period for response. Pursuant to Rule §1.135, the present application went abandoned by operation of law for the failure of Petitioner's representative to reply to this second notice within this two-month period.

It follows that the showing in the present petition is not sufficient to withdraw the holding of abandonment. Pursuant to the discussion above, the petition pursuant to 37 C.F.R. §1.181 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 Under 37 C.F.R. 1.181". This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner's representative may choose to file a petition pursuant to Rule §§1.137(a) and/or (b).

Any 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[1], hand-delivery[2], or facsimile[3].

If responding by mail, Petitioner's representative 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[4]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner's representative 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's representative is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner's representative.

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WWW.USPTO.GOV

Paper No. None

CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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JUN 14 2007

OFFICE OF PETITIONS

In re Application of :
Dennis J. O'Rear et al. :
Application No. 11/097,072 :
Filed: March 31, 2005 :
Attorney Docket No.: G-0159 :
Title: GRANULAR SOLID WAX :
PARTICLES :

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.181(A)

This is a decision on the renewed petition filed on March 5, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed February 1, 2006, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on April 2, 2006. A notice of abandonment was mailed on October 6, 2006.

An original petition was filed on October 24, 2006, where Petitioner alleged that a response was timely submitted. This petition was dismissed via the mailing of a decision on February 16, 2007.

RELEVANT PORTIONS OF THE C.F.R. AND M.P.E.P.

37 C.F.R. § 1.2 sets forth, *in toto*:

> 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.

37 C.F.R. §1.8(b) sets forth, *in toto*:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

ANALYSIS

The decision on the original petition set forth, *in pertinent part*:

> A Notice to File Missing Parts of Nonprovisional Application (first notice) was mailed on May 26, 2005, and set a two-month period for reply. The first notice indicated that the application had been filed without an oath or declaration, and that either an oath or a declaration, along with the surcharge associated with the late submission of the same, would be required.
>
> On February 1, 2006, another Notice to File Missing Parts of Nonprovisional Application (second notice) was mailed, withdrawing the first notice and indicating that the oath or declaration was missing. This second notice set a two-month period for reply.

> With the present petition, Petitioner has alleged that a response was submitted on June 22, 2005 (in response to the first notice), and has included a copy of the response which was purportedly submitted to the Office on June 22, 2005. The response does not contain a certificate of mailing. However, Petitioner has further provided a postcard receipt which indicates that a "combined declaration and power of attorney," a "notice for missing parts transmittal," "assignment papers," and a "certificate of mailing" were received in the Office on June 27, 2005. It is noted that Office records reveal that on this same date, the $130 surcharge was received.
>
> As such, the first notice was mailed on May 26, 2005, and a response was timely submitted to the Office on June 22, 2005. However, a second notice was mailed on February 1, 2006, and it does not appear that Petitioner took any action in response to this notice.
>
> The second notice set a two-month period for response. Pursuant to Rule §1.135, the present application went abandoned by operation of law for the failure of Petitioner to reply to this second notice within this two-month period.
>
> Emphasis included.

With this renewed petition, Petitioner has asserted that a response to the second notice was timely submitted via facsimile transmission to the number 703-308-7124 on February 15, 2006. Petitioner has provided a copy of this transmission.

Petitioner's arguments have been considered, and they have been deemed to be unpersuasive.

First, Rule § 1.8 sets forth a procedure which may be undertaken by applicants, in order to provide relief and secure the withdrawal of a holding of abandonment in situations where a communication is submitted to the Office and either not received or misplaced within the same. The copy of the transmission which was allegedly transmitted on February 15, 2006 has been reviewed, and it does not appear to contain a certificate of facsimile transmission.

Secondly, Petitioner has asserted that this communication was submitted to a facsimile transmission other than the Centralized Facsimile Number. This submission was improper, in that it was not in accordance with well-established and well-publicized Office policy. Office procedure requires this correspondence to have been sent to the Centralized Facsimile Number. See 275 OG 200. See also 1296 OG 76, which explicitly sets forth "…all facsimile-transmitted correspondence specifically directed to the Office of Initial Patent Examination must now be sent to the Central FAX Number…"

Petitioner has asserted that an Office employee by the name of Shirley directed him to send the response to the second notice to facsimile number 703-308-7124, however pursuant to Rule § 1.2, Petitioner cannot rely on an alleged oral understanding.

It follows that the showing in the present petition is not sufficient to withdraw the holding of abandonment. Pursuant to the discussion above, the petition pursuant to 37 C.F.R. §1.181 must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. 1.181". This is not a final agency action within the meaning of 5 U.S.C 704.

Thereafter, there will be no further reconsideration of this matter[1, 2].

Petitioner's only relief is a petition under 37 C.F.R. §1.137, and - having been made aware of this reality - Petitioner's delay in promptly seeking relief under 37 C.F.R. § 1.137 may be considered evidence of intentional delay and an absolute bar to revival. Petitioner may wish to consider filing a petition pursuant to Rule §§ 1.137(a) and/or (b).

Any 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[3], hand-delivery[4], or facsimile[5].

---

1 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.

2 If, on the second request for reconsideration, Petitioner fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

5 (571) 273-8300- please note this is a central facsimile number.

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
United States Patent and Trademark Office

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.

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WWW.USPTO.GOV

Paper No. None

CHEVRON TEXACO CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

In re Application of	:	
Dennis J. O'Rear et al.	:	
Application No. 11/097,072	:	DECISION ON PETITION
Filed: March 31, 2005	:	UNDER 37 C.F.R. §1.137(B)
Attorney Docket No.: G-0159	:	
Title: GRANULAR SOLID WAX	:	
PARTICLES	:	

This is a decision on the petition filed June 26, 2007, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed February 1, 2006, which set a shortened statutory period for reply of two months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-

1 A grantable petition pursuant to 37 C.F.R §1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

identified application became abandoned on April 2, 2006. A notice of abandonment was mailed on October 6, 2006.

An original petition pursuant to Rule § 1.181(a) was filed on October 24, 2006, and was dismissed via the mailing of a decision on February 16, 2007. A renewed petition pursuant to Rule § 1.181(a) was filed on March 5, 2007, and was dismissed via the mailing of a decision on June 14, 2007.

ANALYSIS

With the present petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. No terminal disclaimer is required. The proper response was submitted concurrently with the original petition pursuant to Rule § 1.181(a) on October 24, 2006.

As such, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

CONCLUSION

The Office of Initial Patent Examination (OIPE) will be notified of this decision so that the application may receive further processing.

The general phone number for OIPE is 571-272-4000. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DUANE MORRIS LLP - NY
PATENT DEPARTMENT
1540 BROADWAY
NEW YORK NY 10036-4086

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OCT 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Gershon, David	:	
Application No. 11/097,081	:	ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. JG-RP-5169 CIP/Y3089-00066	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 1617 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Manu Mathew	: DECISION ON REQUEST FOR
Patent Number	: 7602812	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **592** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FULBRIGHT & JAWORSKI L.L.P
2200 ROSS AVENUE
SUITE 2800
DALLAS, TX 75201-2784

Mail Date: 04/27/2010

Applicant	: Douglas O. Reudink	: DECISION ON REQUEST FOR
Patent Number	: 7668530	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/097,095	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of

WONG, Gerald K. et al.
Application No. 11/097,118
Filed: March 31, 2005
Attorney Docket No. **16155-010001**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 15, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BECEEM COMUNICATIONS, INC.**
3960 FREEDOM CIRCLE
1ST FLOOR
SANTA CLARA, CA 95054

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 9/15/09

DATE : March 4, 2009

TO SPE OF : ART UNIT 1656
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/097146 /7378387
Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

ANDREW WANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1656
Art Unit

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5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

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OFFICE OF PETITIONS

In re Application of	:
Golde, et al.	:
Application No.: 11/097,199	: DECISION GRANTING
Filed: April 1, 2005	: PETITION
Attorney Docket No. D.N. 0041.05	:

This is a decision on the petition under 37 CFR 1.10(c), filed June 28, 2005, requesting that the above-identified application be accorded a filing date of April 1, 2005, instead of the presently accorded filing date, which is April 4, 2005.

Petitioners allege that the application was deposited in Express Mail service with the U. S. Postal Service, on April 1, 2005. In support, petitioners provided a copy of the Express Mail label, receipt no. ER997226905US, showing a Date In of "4 1 05" and a postal date stamp of " APR 1 2005" affixed thereto. The same Express Mail label number is referenced in the Utility Patent Application Transmittal filed with the application papers. Petitioner requests that the application be accorded a filing date of April 1, 2005.

The Office considers the date the paper or fee is shown to have been deposited as Express Mail to be the Date In on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as Express Mail with the U.S. Postal Service on April 1, 2005.

In view of the above, the petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **April 1, 2005.** OIPE will mail a filing receipt listing a filing date of April 1, 2005 for the above-identified application in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/097,199	04/01/2005	3731	1130	0041.05	12	19	1

CONFIRMATION NO. 6140

UPDATED FILING RECEIPT

OC000000017876343

25295
USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE, MD 20705-5131

Date Mailed: 01/20/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

William T. Golde, Cutchouge, NY;
Peter Gollobin, Matinecock, NY;

Power of Attorney:

John Fado--27876
Curtis Ribando--27976
Margaret Connor--30043
Randall Deck--34078
Joseph Lipovsky--34526
George Stover--34737
Gail Poulos--36327
David Nicholson--38981
Evelyn Rabin--44480
Lesley Shaw--52214

Domestic Priority data as claimed by applicant

This application is a CIP of 10/967,796 10/18/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/097,199

Projected Publication Date: 04/27/2006

Non-Publication Request: No

Early Publication Request: No

Title

Sterilizable dispenser for sterilizable lancets for bleeding mice

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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MAY 19 2010

USDA, ARS, OTT
5601 SUNNYSIDE AVE., RM 4-1159
BELTSVILLE, MD 20705-5131

In re Application of: GOLDE et al.	: DECISION ON PETITION
Appl. No. 11/097,199	: FOR ACCEPTANCE OF
Filed: April 1, 2005	: COLOR DRAWINGS
For: STERILIZABLE DISPENSER FOR	:
STERILIZABLE LANCETS FOR BLEEDING MICE	:

This is a decision on applicants' petition filed on April 1, 2005 for the acceptance of color photographs of figures 5, 10 and 15-18.

The petition is **DISMISSED.**

Applicants are requesting the acceptance of colored drawings because color drawings are the only practical medium to disclose the information sought to be patented.

Petitions under 37 CFR § 1.84 require:
(i) The fee set forth in § 1.17(h);
(ii) Three (3) sets of color drawings; and
(iii) An amendment to the specification to insert the following language as the first paragraph of the brief description of the drawings:

> "*The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee.*"

While the proper fee set forth in § 1.17 (h) and three (3) sets of color drawings have been included with the petition, the first paragraph of the brief description of the drawings in the specification does not contain, nor was it previously amended to contain, the required language set forth in section (iii) above.

Any questions regarding this decision should be directed to Gene O. Crawford at 571-272-6911.

David Talbott, Director
Technology Center 3600
572-272-5150

gc/lm: 4/28/10
LM

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OFFICE OF PETITIONS

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON VA 22202

In re Application of	:
Carmine D'Avanzo et al.	:
Application No. 11/097,202	: DECISION GRANTING PETITION
Filed: April 4, 2005	:
Attorney Docket No. 2520-1057	:

This is a decision on the petition filed June 23, 2005, in response to the Notice of Incomplete Nonprovisional Application mailed April 27, 2005, requesting that the above identified application be accorded a filing date of April 4, 2005. The petition is treated under 37 CFR 1.53.

The "Notice of Incomplete Nonprovisional Application" mailed April 27, 2005 by the Office of Initial Patent Examination, indicated that the application had not been accorded a filing date because the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings. The notice also advised that the application was deposited without an executed oath or declaration.

In response, the present petition, 3 sheets of drawings and an executed oath or declaration was filed. Petitioners argue that the 3 sheets of drawings and oath or declaration were filed with the other application papers on April 4, 2005. In support of the petition, a copy of petitioner's postcard receipt which shows an official USPTO date-stamp of April 4, 2005, and the above-identified application number, and acknowledges receipt of, *inter alia*, 3 sheets of drawings and an oath or declaration, was supplied with the present petition. Petitioner requests that the application, including the 3 sheets of drawings and oath or declaration, be accorded a filing date of April 4, 2005.

Upon review of the record, no sheets of drawings deposited on April 4, 2005, have been located among the application papers. However, the evidence is convincing that the application papers deposited on April 4, 2005, included 3 sheets of drawings and an oath or declaration, which were subsequently misplaced in the USPTO. Therefore, the application, including the 3 sheets of drawings and oath or declaration, was complete on filing and entitled to a filing date of April 4, 2005.

In view of the above, the petition is **GRANTED**.

The Notice of Incomplete Nonprovisional Application mailed April 27, 2005 is withdrawn. Therefore, petitioner's deposit account no. 25-0120 will be credited in the amount of $400.00 for the petition fee paid.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of April 4, 2005, using the application papers filed on April 4, 2005 and the 3 sheets of drawings and oath or declaration supplied on June 23, 2005.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Patent No. 7,250,740	:	
Katsuki et al.	:	
Issue Date: July 31, 2007	:	DECISION ON
Application No. 11/097,208	:	PETITION
Filed: April 4, 2005	:	
Attorney Docket No. 8040-1066	:	

This is a decision on the PETITION FOR DUPLICATE LETTERS PATENT UNDER 37 CFR §1.182 filed December 12, 2007, requesting that a duplicate letters patent be issued on the basis that the original mailed to the law firm on July 31, 2007 was lost in the mail. The petition has been made by an appropriate party in interest, i.e., an attorney of record and includes the petition fee of $400.

Accordingly, the petition is **GRANTED**.

The Office of Data Management is directed to issue a Duplicate Letters Patent.

Any questions concerning this decision may be directed to the undersigned at (571) 272 - 3219. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 x 119.

A copy of this decision is being forwarded to the Office of Data Management for issuance of a duplicate Letters Patent.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer, Office of Data Management,
(FAX) 571-270-9753

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/097,214	04/04/2005	Robert Petit	0580-1024	6120

7590 03/14/2008
YOUNG & THOMPSON
209 Madison Street
Suite 500
ALEXANDRIA, VA 22314

EXAMINER
KARLS, SHAY LYNN

ART UNIT	PAPER NUMBER
3723	

MAIL DATE	DELIVERY MODE
03/14/2008	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.

Mimi Farmer

Patent Publication Branch
Office of Data Management

FORM PET651G (Rev. 08/07)

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ANNANDALE VA 22003

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OFFICE OF PETITIONS

In re Application of
Chao-Jen LIN
Application No. 11/097,237
Filed: May 4, 2005
Attorney Docket No. 18807-103

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 26, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Rosenberg, Klein & Lee, Esq. has been revoked by the assignee of the patent application on September 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: TAIWAN MINDCATCHER, INC.
NO. 27, GUANGHUA ROAD
SANCHONG CITY
TAIPEI COUNTY 241
TAIWAN, R.O.C.

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BLAKE, CASSELS & GRAYDON, LLP
45 O'CONNOR ST., 20TH FLOOR
OTTAWA ON K1P 1A4 CA CANADA

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Caetano et al.	:	
Application No.: 11/097284	:	DECISION ON
Filing or 371(c) Date: 04/04/2005	:	PETITION
Attorney Docket Number: 102654/3	:	

This is a decision in response to the Petition To Withdraw the Holding of Abandonment, 37 CFR 1.181, filed February 23, 2009.

This Petition is hereby **dismissed**.

Any further petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed November 28, 2007. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a reply via facsimile in the form of an Amendment on January 31, 2008; however, the Amendment failed to place the application in condition for allowance. Applicant was so notified in an Advisory Action mailed May 30, 2008.

No complete and proper reply having been received, the application became abandoned on January 29, 2008. A Notice of Abandonment was mailed March 30, 2007.

Petition under 37 CFR 1.181

Applicant files the instant petition requesting withdrawal of the holding of abandonment because the Advisory Action was improperly issued two days after the expiry of the six month response period from the mail date of the final Office action, and Applicant was unable to file a timely and proper response.

Applicable Law, Rules and MPEP

35 U.S.C.§ 133, Time for prosecuting application, states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

37 CFR 1.135, Abandonment for failure to reply within time period, provides that

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. (Emphasis supplied).

MPEP 711.03(c)

The MPEP 711.03(c)(I)(A), Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, explains that

> [e]vidence 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 and conclusion

In this instance, Applicant filed a reply to the final Office action; however, the reply failed to place the application in condition for allowance. The application became abandoned for failure to file "such complete and proper reply as the condition of the application may require." The failure to receive an advisory action does not warrant withdrawal of the holding of abandonment. It is Applicant's responsibility to file a complete and proper reply to the Office action in the first instance.

Alternative venue

Applicant is urged to file a petition stating that the delay was unintentional. An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning the Amendment should be directed to the Examiner. Questions regarding this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKE, CASSELS & GRAYDON, LLP
45 O'CONNOR ST., 20TH FLOOR
OTTAWA ON K1P 1A4 CA CANADA

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OFFICE OF PETITIONS

In re Application of	:	
Saul Caetano, et al.	:	
Application No. 11/097,284	:	ON PETITION
Filed: April 4, 2005	:	
Attorney Docket No. 102654/3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 28, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 29, 2008. The Notice of Abandonment was mailed December 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; 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 $555 extension of time fee submitted with the petition on February 23, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 3611 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Johnson
Petitions Examiner
Office of Petitions

PTO/SB/22 (01-09)
Approved for use through 02/28/2009. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARMENT 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 EXTENSION OF TIME UNDER 37 CFR 1.136(a) **FY 2009** *(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)*	Docket Number (Optional) 102654/3
Application Number 11/097,284	Filed 04/04/2005
For ADVERTISING DISPLAY	
Art Unit 3611	Examiner Syed A. ISLAM

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

		Fee	Small Entity Fee	
☐	One month (37 CFR 1.17(a)(1))	$130	$65	$
☐	Two months (37 CFR 1.17(a)(2))	$490	$245	$
☑	Three months (37 CFR 1.17(a)(3))	$1110	$555	$ 555.00
☐	Four months (37 CFR 1.17(a)(4))	$1730	$865	$
☐	Five months (37 CFR 1.17(a)(5))	$2350	$1175	$

☐ Applicant claims small entity status. See 37 CFR 1.27.

Adjustment Date: 11/09/2009 CKHLUK
02/23/2009 INTEFSW 00000637 501456 11097284
01 FC:2253 555.00 CR

☐ 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.

☑ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 501456.

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 39,493

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature — Date: February 23, 2009

Paul SHARPE — Typed or printed name

613-788-2216 — Telephone Number

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 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). 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 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 11/06/09

2 Serial/Patent # 11/097,284

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		02/23/09	$ 555.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 555.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 1 4 5 6

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation): x

THE EXTENSION OF TIME IS UNNECESSARY.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Johnson TITLE: Paralegal Specialist

SIGNATURE: T. Johnson PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKLOK DATE: 11/9/09

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

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KEVIN J. MCNEELY, ESQ.
5335 WISCONSON AVENUE, NW
SUITE 440
WASHINGTON DC 20015

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OFFICE OF PETITIONS

In re Application of	:	
Whitaker et al.	:	
Application No. 11/097,291	:	ON PETITION
Filed: 4 April, 2005	:	
Atty Docket No. 4085.0001	:	

This is a decision on the petition filed on 20 June, 2005, requesting that the above-identified application be accorded a filing date of 4 April, 2005, with one (1) sheet of drawings containing Figure 6 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 4 April, 2005.

Accordingly, on 16 May, 2005, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 4 April, 2005, but that Figure 6 described in the specification appeared to have been omitted.

In response, on 20 June, 2005, the present petition and a copy of one (1) sheet of drawings containing Figure 6 described in the specification was filed. Petitioners argue that the sheet of drawings containing Figure 6 was filed with the other application papers on 4 April, 2005, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of "040405" containing the above-identified application number, and identifies the application by the second inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "6 drawings". Petitioners request that the application, including one (1) sheet of drawings containing Figure 6 described in the specification, be accorded a filing date of 4 April, 2005.

A review of the record reveals that five sheets of drawings containing drawing Figures 1, 2, 3, 4, and 5, received on 4 April, 2005, are located therein. No sheet of drawings containing Figure 6 described in the specification has been located among the five (5) sheets of drawings deposited with the application papers received on 4 April, 2005. However, the evidence is convincing that the application papers deposited on 10 November, 2004, included six (6) sheets of drawings, one of which included Figure 6 described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 6 described in the specification, is entitled to a filing date of 4 April, 2005.

The "Notice" mailed on 16 May, 2005, is vacated.

Petitioner is cautioned, in future filings, that the postcard receipt should itemize both the number of sheets of drawings and the number of drawing figures. A postcard that is not properly itemized will not serve as evidence of receipt in the USPTO of the items listed thereon.

In view of the above, the petition is granted. The $400.00 in petition fee paid with the present petition is unnecessary and will be refunded to counsel by treasury check.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 6 supplied on 20 June, 2005, as a part of the original disclosure. The copies of the other application papers supplied with the present petition will not be used for processing or examination, but will be retained in the official file.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 4 April, 2005, using the application papers filed on that date, and the one (1) sheet of drawings containing Figure 6 supplied with the present petition.

Telephone inquires should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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MAR 21 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of HONG, MIN CHEOL Application No. 11/097,312 Filed: April 4, 2005 Attorney Docket No. 63000-4/US/DVC	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth A. Wieder

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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.
11/097,319	04/04/2005	Kangeun Lee	1793.1667	5977

21171 7590 07/02/2010
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
COLUCCI, MICHAEL C

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
07/02/2010	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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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

MAIL

JUL 02 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
LEE, KANGEUN, et al.
Application Serial No.: 11/097,319
Filed: April 4, 2005
For: **APPARATUS AND METHOD OF ENCODING/DECODING VOICE FOR SELECTING QUANTIZATION/ DEQUANTIZATION USING CHARACTERISTICS OF SYNTHESIZED VOICE**

DECISION
ON PETITION

This is a decision on the petition under 37 CFR § 1.181 to supervising examiner to withdraw finality of office action, filed March 4, 2010. This petition is properly decided by the Technology Center Director, see MPEP § 1002.02(c)(3)(a).

Petitioner requests that supervisory review of the final Office action of December 4, 2009 be made in view of alleged failure of the Office action to address Applicants' traversals.

The request is granted insofar as review of the Office action has been made but, **DENIED** as to changing the outcome thereof.

A careful review of the Office action has been made insofar as it relates to petitioner's position as to the sufficiency of the examiner's traversal of the arguments.

Throughout the petition, petitioner argues that the examiner has not adequately addressed applicant's arguments. There is no argument within the petition itself that the final Office action was premature or otherwise improper. The only argument is in essence that the examiner has failed to establish a prima facie case of obviousness. Petitioner argues the merits of the applied references particularly the John reference. As an example, on page three of the petition, petitioner states "...the Office Action appears to focus on John's discussion of two separate quantization units. However, as set forth above, merely discussing the use of two separate quantization units cannot be properly interpreted as being equal to the claimed "selective quantizing." This argument as well as others throughout the petition relate to the merits of the rejection. These arguments are proper for appeal rather than petition. MPEP 1201 states in part:

"...The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the **>Director of the U.S. Patent and Trademark Office (Director)< should be carefully observed. The Board will not ordinarily hear a question **>that< should be decided by the *>Director on petition<, and the *>Director< will not ordinarily entertain a petition where the question presented is **>a matter appealable to the Board<."

On page six of the petition it is urged that "...(t)he outstanding Office Action mailed December 4, 2009, fails to respond to Applicants proper traversal of the apparent Official Notice set forth in the Office Action mailed June 29, 2009, regarding dependent claims 10, 17, 23 and 25."
The examiner, in making this rejection in the final Office action, does not use Official Notice. Regarding dependent claims 10, 17, 23 and 25, the examiner sets forth that certain limitations are functional equivalents. See, MPEP 2144.06 (Art Recognized Equivalents Known for the Same Purpose) as compared with MPEP 2144.03 (Reliance on Common Knowledge in the Art or "Well Known" Prior Art.)

Summary: The petition is **denied**.

The application is being forwarded to the examiner for consideration of the after final amendment filed March 4, 2010.

Any request for reconsideration must be filed within two months from the mailing date of this decision. Extension of time under 37 CFR 1.136(a) is not permitted.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
HONG, MIN CHEOL	:	DECISION ON REQUEST TO
Application No. 11/097,322	:	PARTICIPATE IN PATENT
Filed: April 4, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 63000-4/US/DVB	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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DEC 04 2008

In re Application of

Hiroshi Tsunehara

Application No. 11/097,338

Filed: April 4, 2005

Attorney Docket No. 023971-0546

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed June 3, 2008.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on February 3, 2008, after it was believed that no response was received to the non-final Office action mailed November 2, 2007. The notice allowed a period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on May 29, 2008, indicating that a reply to the non-final Office action was not received.

Petitioner states that an amendment responsive to the non-final Office action was filed on March 3, 2008, with a request for an extension of time within first month. An Office date-stamped postcard whereby the USPTO acknowledged receiving the response on March 3, 2008, accompanied the petition. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

Further inquires regarding this decision may be directed to the undersigned at (571) 272-3222.

The application file is being forwarded Technology Center 3600, GAU 3683, for further processing including review of the amendment filed March 3, 2008, a copy of which was filed with the petition on June 3, 2008.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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MAR 1 5 2007

OFFICE OF PETITIONS

In re Application of	:	
Hogg et al.	:	
Application No. 11/097,339	:	DECISION GRANTING PETITION
Filed: April 4, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 033275-457	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed PCT application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed PCT application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed PCT application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This application is being forwarded to Technology Center Art Unit 3673 for appropriate action on the amendment filed January 16, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed PCT application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/097,339	04/04/2005	3673	1130	033275-457	13	2

CONFIRMATION NO. 6079
CORRECTED FILING RECEIPT
OC000000022897423
OC000000022897423

21839
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Date Mailed: 03/14/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Simon Ian Hogg, Rugby, UNITED KINGDOM;
Karl Urlichs, Rothenbach/Pegn., GERMANY;

Assignment For Published Patent Application

ALSTOM TECHNOLOGY LTD., Baden, SWITZERLAND

Power of Attorney: The patent practitioners associated with Customer Number **21839**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/50684 10/03/2003

Foreign Applications

UNITED KINGDOM 0222946.6 10/03/2002

If Required, Foreign Filing License Granted: 05/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/097,339

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Sealing arrangement using brush seals

Preliminary Class

277

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

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Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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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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WASHINGTON DC 20001-4413

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JUN 10 2008

OFFICE OF PETITIONS

In re Application of	:	
Glombik, et al.	:	LETTER REGARDING PTA
Application No. 11/097,345	:	
Filed: April 4, 2005	:	
Atty. Dkt. No.: 2481.1801-02	:	

This letter is in response to the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST OR CLARIFICATION OF CALCULATION," filed February 14, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed November 15, 2007 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 154 days. Applicants advise that the correct adjustment is 87 days and request clarification of the adjustment determination.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 87 days, as indicated by applicants.

As indicated in the Determination of Patent Term Adjustment mailed November 15, 2007, an overall adjustment of 215 days can be attributed to the Office. The adjustment was properly reduced 61 days in accordance with 37 CFR 1.704(c)(8) in connection with the supplemental response submitted January 29, 2007.

As indicated by applicants, the Office neglected to assess a reduction in connection with the supplemental amendment filed November 6, 2007. In accordance with 37 CFR 1.704(c)(8), the adjustment of 215 days is further reduced an additional 67 days. The reduction commenced September 1, 2007, the day after the date that the initial reply to the non-final Office action dated May 31, 2007 was filed, and ended November 6, 2007, the date that the supplemental response was filed.

Accordingly, at the time of allowance, the application is entitled to an adjustment 87 days (adjustment for Office delays

totalling 215 days less reductions for applicants delays totalling 128 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

PALM INTRANET

Day : Monday
Date: 6/9/2008
Time: 15:35:36

PTA Calculations for Application: 11/097345			
Application Filing Date:	04/04/2005	PTO Delay (PTO):	215
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	61
Post-Issue Petitions:	0	Total PTA (days):	87
PTO Delay Adjustment:	-67		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
49	06/09/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		67	
41	11/15/2007	MAIL NOTICE OF ALLOWANCE			
40	11/15/2007	MAIL EXAMINER'S AMENDMENT			
39	11/14/2007	ISSUE REVISION COMPLETED			
38	11/14/2007	DOCUMENT VERIFICATION			
37	11/14/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
36	11/13/2007	EXAMINER'S AMENDMENT COMMUNICATION			
35	11/13/2007	NOTICE OF ALLOWABILITY			
34	08/31/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	09/11/2007	PARALEGAL TD ACCEPTED			
32	08/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	29
31	08/31/2007	TERMINAL DISCLAIMER FILED			
30	09/10/2007	DATE FORWARDED TO EXAMINER			
29	08/31/2007	RESPONSE AFTER NON-FINAL ACTION			
28	08/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	08/31/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	01/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	01/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	05/31/2007	MAIL NON-FINAL REJECTION	63		19
23	05/29/2007	NON-FINAL REJECTION			
22	04/04/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

21	01/29/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	05/08/2007	DATE FORWARDED TO EXAMINER			
19	11/29/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
18.7	01/29/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		61	19
18	12/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/14/2006	REFERENCE CAPTURE ON IDS			
16	11/03/2006	MAIL RESTRICTION REQUIREMENT	152		-1
15	10/25/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
14	09/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	09/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	04/04/2005	REFERENCE CAPTURE ON IDS			
11.7	04/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	04/04/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	08/19/2005	APPLICATION DISPATCHED FROM OIPE			
9	08/19/2005	APPLICATION IS NOW COMPLETE			
8	07/07/2005	ADDITIONAL APPLICATION FILING FEES			
7	07/07/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	05/12/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	05/05/2005	CLEARED BY OIPE CSR			
4	04/28/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	04/15/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	04/04/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	04/04/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,399,777	: ON PETITIONS under
Issued: July 15, 2008	: 37 CFR 1.183 and ON REQUEST
Application No. 11/097,345	: FOR RECONSIDERATION OF
Filed: April 4, 2005	: PATENT TERM ADJUSTMENT
Dkt. No.: 2481.1801-02	:

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) POST GRANT APPLICATION FOR PATENT TERM ADJUSTMENT, both filed on January 9, 2009.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,399,777 with a revised patent term adjustment of 118 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed POST GRANT APPLICATION FOR PATENT TERM ADJUSTMENT. Patentee references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008) as the basis for the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on July 15, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until January 9, 2009. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by September 15, 2008, the date two months from the date this patent issued, July 15, 2008. Rather, on January 9, 2009, after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.

37 CFR 1.183 provides that:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

35 U.S.C. 154, which requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director, authorizes the Director to establish the procedures for requesting such reconsideration. Those procedures[1]

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[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35

include, pursuant to 37 CFR 1.705(d), setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. Petitioner sets forth no basis for requesting waiver pursuant to 37 CFR 1.183. Petitioner merely references the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008).

Petitioner has not explained why petitioner could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued. Presumably, petitioner's argument is that the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered after the issuance of their patent.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A), Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner has not presented any persuasive argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued.

Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chosen not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation

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U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision. In addition, given that the law only allows 180 days for both the filing of a petition and for the Office's consideration of that petition, petitioner's unexplained delay in filing the petition weighs against them.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

The contention that a decision is in error is a basis for a timely request for review of the decision but does not justify a delay in seeking review of such decision.

The Office provided notice that petitions under 37 CFR 1.182 and 1.183 or requests for certificate of corrections under 35 USC 354 and Sec. 1.323 or 35 U.S.C. 255 and Sec. 1.324 are not substitute *fora* to obtain reconsideration of a patent term adjustment determination indicated in a notice of allowance if applicant fails to submit a request for reconsideration within the time period specified in Sec. 1.705(b) or to obtain reconsideration of a patent term adjustment determination indicated in a patent if a patentee fails to submit a request for reconsideration within the time period specified in Sec. 1.705. See 69 Fed. Reg. 21704, 21707 (April, 22, 2004).

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **dismissed**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)

This is a decision on the "POST GRANT APPLICATION FOR PATENT TERM ADJUSTMENT," filed January 9, 2009. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to 189 days.

On July 15, 2008, the above-identified application matured into U.S. Patent No. 7,399,777 with a revised patent term adjustment of 118 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on January 9, 2009.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for

requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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Mann+Hummel GMBH
Department VR-P
Hindenburgstr. 45
Ludwigsburg, 71638
GERMANY

Mail Date: 04/27/2010

Applicant	: Jens Sohnemann	: DECISION ON REQUEST FOR
Patent Number	: 7618479	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/097,361	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **506** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of	:	
HONG, MIN CHEOL	:	DECISION ON REQUEST TO
Application No. 11/097,393	:	PARTICIPATE IN PATENT
Filed: April 4, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 63000-4/US/DVD	:	PILOT PROGRAM AND PETITION
	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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In re Application of HONG, MIN CHEOL Application No. 11/097,394 Filed: April 4, 2005 Attorney Docket No. 63000-4/US/DVA	: : : : : : :	DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the KIPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the KIPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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Alexandria, VA 22313-1450
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EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON MA 02205

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JUN 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Morisue	:	
Application No. 11/097,416	:	DECISION GRANTING
Filed: March 31, 2005	:	PETITION
Attorney Docket No. 63226 (70840)	:	
For: IMAGE PROCESSING APPARATUS, IMAGE PROCESSING METHOD, IMAGE PROCESSING PROGRAM, AND RECORDING MEDIUM STORING IMAGE PROCESSING PROGRAM	:	

This is a decision on the petition under 37 CFR 1.53(e), filed May 10, 2005, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it alleges that Figure 17 described in the specification was omitted.

The application was filed on March 31, 2005. On May 2, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 17 described in the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that Figure 17 be accorded a filing date of March 31, 2005 on the basis that 14 sheets of drawing figures, including Figure 17, were received in the Patent and Trademark Office (PTO) on March 31, 2005. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing March 31, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing included 14 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 14 sheets of drawing figures were filed on March 31, 2005. MPEP 503. A review of the originally filed pages of drawings reveals that only 13 sheets are present. Accordingly, the request is **GRANTED**.

Pursuant to petitioners' authorization, the $400.00 petition fee will be credited to deposit account no. 04-1105.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **March 31, 2005**, using the copy of Figure 17 submitted with the instant petition. Office records will be corrected to show that 14 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 04/21/2010

Applicant	: Mehul D. Bastawala	: DECISION ON REQUEST FOR
Patent Number	: 7613710	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,422	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **182** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 05/18/2010

Applicant : Mehul D. Bastawala
Patent Number : 7613710
Issue Date : 11/03/2009
Application No : 11/097,422
Filed : 04/01/2005

: 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 **279** 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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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Claude Basso	: DECISION ON REQUEST FOR
Patent Number	: 7606166	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,430	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1053** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO FL 32802-3791

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OFFICE OF PETITIONS

In re Patent No. 7,045,813 :
Issue Date: May 16, 2006 :
Application No. 11/097,433 :
Filed: April 1, 2005 :
Attorney Docket No. 62682 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed August 1, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

It is noted that petitioner submitted a petition fee of $130. Since the requisite petition fee is $400, the $270 balance of the petition fee is being charged to counsel's deposit account as authorized.

The petition is **granted**.

The Office of Data Management is directed to issue duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

A copy of this decision is being faxed to Office of Data Management for issuance of a duplicate Letters Patent.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753)

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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

In re Application of :
Yoshiharu GLATRON, ARNAUD et al :
Application No. 11/097,446 : DECISION ON PETITION
Filed: March 31, 2005 : TO MAKE SPECIAL
For: **AUDIO PROCESSING SYSTEM** :

This is a decision on the petition filed April 25, 2005 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The office regrets the delay in addressing this matter. 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.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 06/10/2010

Applicant	: Raymond C. Kurzweil	: DECISION ON REQUEST FOR
Patent Number	: 7629989	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/097,448	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **965** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

Shemwell Gregory & Courtney LLP
Suite 201
4880 Stevens Creek Boulevard
San Jose, CA 95129

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OFFICE OF PETITIONS

In re Application of	:	
Kevin Grundy, Gary Yasumura	:	
Joseph Fjelstad, William Wiedemann	:	
And Para Segaram	:	DECISION ACCORDING
Application No. 11/097,450	:	STATUS UNDER
Filed: April 1, 2005	:	37 C.F.R. § 1.47(a)
Attorney Docket No. SIPI.P134	:	

This is a decision on the PETITION UNDER 37 CFR 1.47(a) filed November 4, 2005.

The petition is **GRANTED**.

The above-identified application was filed on April 1, 2005, without an executed oath or declaration and with filing fees due. By Notice to File Missing Parts of Nonprovisional Application mailed May 11, 2005, applicants were required to submit the missing items, along with a late surcharge. The Notice set a two (2) month time limit for response, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition (and petition fee), missing filing fees and late surcharge. This response was made timely by an accompanying petition (and fee) for extension for response within the fourth month. Accompanying the petition was two declarations executed, in combination, by joint inventors Kevin Grundy, Gary Yasumura, Joseph Fjelstad, and William Wiedemann on behalf of themselves and on behalf of non-signing joint inventor Para Segaram. Applicants assert that status under 1.47(a) is proper because joint inventor Segaram has refused to join in the application. By declaration of

Mr. Matthew Stepovich, applicants have shown that a copy of the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventor, and that the inventor has, by his conduct in not responding, refused to join in the application. The declarations filed November 4, 2005, have been reviewed and found in compliance with § 1.63. Moreover, the petition submitted includes the petition fee. The last known address of inventor Segaram is deemed to be as set forth on the declaration.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MR. PARA SEGARAM
106 KINTYRE STREET
BROOKFIELD,
QUEENSLAND 4069
AUSTRALIA

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Kevin Grundy, Gary Yasumura	:	
Joseph Fjelstad, William Wiedemann	:	
And Para Segaram	:	LETTER
Application No. 11/097,450	:	
Filed: April 1, 2005	:	
Attorney Docket No. SIPI.P134	:	

Dear Mr. Segaram:

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

Shemwell Gregory & Courtney LLP
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4880 Stevens Creek Boulevard
San Jose, CA 95129

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LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

Applicant: Raibekas et al.
Appl. No.: 11/097,453
Filing Date: April 1, 2005
Title: IL-1RA VARIANTS
Attorney Docket No.: 06483.0092-00000
Pub. No.: US 2005/0282752 A1
Pub. Date: December 22, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on February 22, 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 on page 6 of the specification in paragraph [0061], line 12, wherein "IL – 1ra β" is misprinted as "IL – 1ra p"

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 on page 6 of the specification in paragraph [0061], line 12, wherein "IL – 1ra β (see, e.g., PCT Publication No WO 99/36541)" is misprinted as "IL – 1ra p (see, e.g., PCT Publication No WO 99/36541)" is an Office error, but it is not a material Office error under 37 CFR 1.221. The error is not a material Office error because the qualifier following the typographical mistake makes it clear. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Patent No. 7,619,066	:	DECISION ON REQUEST FOR
Raibekas et al.	:	RECONSIDERATION OF
Issue Date: November 17, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 11/097,453	:	NOTICE OF INTENT TO ISSUE
Filed: April 1, 2005	:	CERTIFICATE OF CORRECTION
Atty. Docket No. 06843.0092-00000	:	

This is a decision on the petition filed on January 15, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred ninety-six (596) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **four hundred seventy-six (476) days**.

Patentee acknowledges 357 days of A delay, 331 days of delay under 37 CFR 1.702(b), and 92 days of applicant delay. However, patentee incorrectly calculated B delay.

37 CFR 1.703(b) indicates that the period of adjustment under 37 CFR 1.702(b) ("over three year period") is the number of days, if any, in the period beginning on the day after the date that is three years after the actual filing date of the application and ending on the date a patent was issued. 35 U.S.C. 154(b)(1)(B). However, 37 CFR 1.703(b) also sets forth the limitations on patent term adjustment specified in 35 U.S.C.

154(b)(1)(B)(i) and (ii). Specifically, 37 CFR 1.703(b)(4)[1] provides that the period of adjustment of the term of a patent shall not include the period equal to the sum of the period of pendency consumed by appellate review under 35 U.S.C. 134, 141, 145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii)).

The Office agrees with patentee that the "over three year period" is 331 days. However, patentee failed to account for the filing of the notice of appeal on October 30, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 120 days, beginning on the date on which the notice of appeal was filed, October 30, 2008, and ending on the day before the Request for Continued Examination was filed, February 26, 2009. Thus, B delay is 211 days (331 - 120).

Accordingly, the patent term adjustment is 476 days (357 days of A delay + 211 days of B delay - 92 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred seventy-six (476) days.**

---

[1] The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, **whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences**. 37 CFR 1.703(b) (emphasis added).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,619,066 B2

DATED : Nov. 17, 2009 **DRAFT**

INVENTOR(S) : Raibekas 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 265 days

Delete the phrase "by 265 days" and insert – by 476 days--

Day : Wednesday

PALM INTRANET

Date: 7/14/2010
Time: 11:15:42

PTA Calculations for Application: 11/097453			
Application Filing Date:	04/01/2005	PTO Delay (PTO):	357
Issue Date of Patent:	11/17/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	476
PTO Delay Adjustment:	211		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	07/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	211		
74.5	10/28/2009	PTA 36 MONTHS			
74	11/17/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
73	10/14/2009	EXPORT TO FINAL DATA CAPTURE			
72	10/13/2009	DISPATCH TO FDC			
71	10/12/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
70	10/06/2009	ISSUE FEE PAYMENT VERIFIED			
69	10/06/2009	ISSUE FEE PAYMENT RECEIVED			
68	08/05/2009	FINISHED INITIAL DATA CAPTURE			
67	07/27/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
63	07/06/2009	MAIL NOTICE OF ALLOWANCE	9		48
62	07/02/2009	ISSUE REVISION COMPLETED			
61	07/02/2009	DOCUMENT VERIFICATION			
60	07/02/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	07/02/2009	CASE DOCKETED TO EXAMINER IN GAU			
58	08/19/2005	NEW OR ADDITIONAL DRAWING FILED			
57	06/30/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
56	07/02/2009	EXAMINER'S AMENDMENT COMMUNICATION			
55	07/02/2009	NOTICE OF ALLOWABILITY			
54	06/24/2009	PARALEGAL TD ACCEPTED			
53	02/27/2009	FEE PAYMENT RECORDED (FEES FILED SEPARATELY E.G. NOT WITH ORIGINAL PAPERS, ETC).			
		AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S)			

52	02/27/2009	RECEIVED			
51	03/11/2009	DATE FORWARDED TO EXAMINER			
50	02/27/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	03/11/2009	DATE FORWARDED TO EXAMINER			
48	02/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	03/11/2009	DISPOSAL FOR A RCE / CPA / R129			
46	02/27/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
45	02/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
44	12/15/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
43	12/09/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	11/24/2008	MAIL ADVISORY ACTION (PTOL - 303)			
41	11/21/2008	ADVISORY ACTION (PTOL-303)			
40	11/06/2008	DATE FORWARDED TO EXAMINER			
39	10/30/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
38	10/30/2008	NOTICE OF APPEAL FILED		92	36
37	10/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	04/30/2008	MAIL FINAL REJECTION (PTOL - 326)			
35	04/28/2008	FINAL REJECTION			
33	02/25/2008	DATE FORWARDED TO EXAMINER			
32	01/30/2008	RESPONSE AFTER NON-FINAL ACTION			
30	10/31/2007	MAIL NON-FINAL REJECTION			
29	10/29/2007	NON-FINAL REJECTION			
28	02/03/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	05/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	08/27/2007	DATE FORWARDED TO EXAMINER			
23	08/15/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
22	08/15/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
21	05/15/2007	MAIL RESTRICTION REQUIREMENT	348		-1
20	05/14/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
19	02/28/2007	MAIL-PETITION DECISION - DISMISSED			

18	02/22/2006	PETITION ENTERED			
17.7	05/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16.7	02/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	02/03/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/18/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	08/19/2005	PRELIMINARY AMENDMENT			
13	10/18/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	09/12/2005	APPLICATION DISPATCHED FROM OIPE			
11	09/12/2005	APPLICATION IS NOW COMPLETE			
10	08/19/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
9	08/19/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
8	08/19/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	08/31/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	05/19/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	05/16/2005	CLEARED BY L&R (LARS)			
4	04/15/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	04/15/2005	CASE CLASSIFIED BY OIPE			
2	04/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/01/2005	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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 01 2009

OFFICE OF PETITIONS

In re Application of	:	
Askari et al.	:	
Application No. 11/097,467	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 1880-4	:	FROM RECORD
	:	

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 18, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on January 9, 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 Alicia Kelley at 571-272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: HOFFMANN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 04/26/2010

Applicant	: Jordi Cortadella	: DECISION ON REQUEST FOR
Patent Number	: 7634749	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,514	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VISTA IP LAW GROUP LLP
1885 Lundy Avenue
Suite 108
SAN JOSE, CA 95131

Mail Date: 05/18/2010

Applicant : Jordi Cortadella
Patent Number : 7634749
Issue Date : 12/15/2009
Application No : 11/097,514
Filed : 04/01/2005

: 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 **497** 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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ENZO BIOCHEM, INC.
527 MADISON AVENUE (9TH FLOOR)
NEW YORK NY 10022

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MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
ZHENG et al. :
Application No. 11/097,518 :
Filed: April 1, 2005 :
Attorney Docket No. ENZ-75 :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 15, 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 Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed January 4, 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 March 5, 2006.

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 **not** a correct reading of the statement appearing in the petition.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. The terminal disclaimer filed August 15, 2006 is unnecessary because the above application was filed **after** June 8, 1995.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The application file is being forwarded to Technology Center Art Unit 1645 for consideration of the amendment filed August 15, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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PATRICK D. KELLY
11939 MANCHESTER #403
ST. LOUIS, MO 63131

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MAY 11 2007

OFFICE OF PETITIONS

In re Application of	:	
Alaska, Andrew	:	
Application No. 11/097,537	:	ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. AA-SWEEP-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 21, 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 Oath/Declaration and an Abstract; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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MYERS & KAPLAN
INTELLECTUAL PROPERTY LAW LLC
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA GA 30339

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OFFICE OF PETITIONS

In re Application of	
Dinesh G. Sthanki, et al.	
Application No. 11/097,551	DECISION ON PETITION
Filed: April 1, 2005	TO WITHDRAW
Attorney Docket No. 25810-RA	FROM RECORD

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 2, 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 Joel D. Myers Esq. on behalf of all attorneys of record who are associated with customer No. 30184.

All attorneys/agents associated with the Customer Number 30184 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed October 31, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DINESH G. STHANKI
PANDIT, PATEL & STHANKI
40 SPRINGBRANCH CT
NEWMAN, GA 30265

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/097,551	04/01/2005	Dinesh G. Sthanki	25810-RA

CONFIRMATION NO. 6291

OC000000021892607

OC000000021892607

30184
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C.
1899 POWERS FERRY ROAD
SUITE 310
ATLANTA, GA 30339

Date Mailed: 01/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/02/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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2

Paper No.

LAW OFFICE OF CHARLES W. PETERSON, JR.
11703 BOWMAN GREEN DRIVE
SUITE 100
RESTON, VA 20190

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of :
Heng et al. :
Application No. 11/097,552 : DECISION ON
Filed: April 1, 2005 : PETITION
Atty Docket No.YOR920040091US2:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION" filed July 20, 2006.

The above-identified application became abandoned for failure to timely respond to the NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION mailed May 11, 2006. This Notice set a one-month period for reply. No reply having been received, the above-identified application became abandoned on June 12, 2006. A courtesy Notice of Abandonment was mailed on July 13, 2006.

In response, applicants filed the instant petition requesting withdrawal of the holding of abandonment on the basis that the Notice was not received by applicants.

There is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that

the Office communication was not received. In addition, 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.

Petitioner has supported his claim of non-receipt with such evidence.

In view thereof, the notice of abandonment mailed July 13, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

The Office of Patent Publication has been advised of this decision. The application file is, thereby, returned to the Publishing Division for withdrawal of the holding of abandonment and for mailing of a new NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION and for restarting of the period for reply to the Notice.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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September 2005

GEORGE RIDEOUT
4400 ABBOTT GROVE DRIVE
CRESTWOOD, KY 40014

SEP - 8 2005

In re Application of:
XING YUAN ET AL.
Serial No.: 11/097,560
Filed: 02 April 2005
Docket: IGC-106

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) [SUPERCONDUCTIVITY]

This is a decision on the petition filed on April 02, 2005, to make the above-identified application special on the ground of prospective manufacture under the procedure set forth in MPEP § 708.02(IX) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **GRANTED**.

In support of the petition, petition provides the requisite petition fee and a statement that the invention involves superconductive materials, as required by MPEP § 708.02(IX) in accordance with 37 C.F.R. § 1.102(d).

The requirements of MPEP § 708.02(IX) are considered to have been met. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

Mail Date: 04/27/2010

Applicant	: Kamran Shirazi	: DECISION ON REQUEST FOR
Patent Number	: 7575189	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/097,581	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **775** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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IBM CORP. (DHJ)
c/o DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

Mail Date: 04/20/2010

Applicant	: Heather Maria Hinton	: DECISION ON REQUEST FOR
Patent Number	: 7631346	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,587	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1174** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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IBM CORP. (DHJ)
c/o DAVID H. JUDSON
15950 DALLAS PARKWAY
SUITE 225
DALLAS, TX 75248

Mail Date: 05/17/2010

Applicant : Heather Maria Hinton
Patent Number : 7631346
Issue Date : 12/08/2009
Application No : 11/097,587
Filed : 04/01/2005

: 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 **1217** 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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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI, OH 45215

Mail Date: 04/20/2010

Applicant	: Ching-Pang Lee	: DECISION ON REQUEST FOR
Patent Number	: 7575414	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 9 2005

DANN, DORFMAN, HERRELL & SKILLMAN
1601 MARKET STREET
SUITE 2400
PHILADELPHIA PA 19103-2307

In re Application of	:
Zhang et al.	:
Serial No.: 11/097,605	: PETITION TO MAKE SPECIAL
Filed: April 1, 2005	:
Attorney Docket No.: 4408-P03611US00	:

This is in response to applicants' petition filed August 30, 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 received.

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
Special Program Examiner
Technology Center 1600

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Woodard, Emhardt, Moriarty, McNett & Henry LLP
Roche Diagnostics
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Mail Date: 04/20/2010

Applicant	: Terry Beaty	: DECISION ON REQUEST FOR
Patent Number	: 7601299	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,606	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1230** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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IBM CORPORATION
PO BOX 12195
DEPT YXSA, BLDG 002
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Ravi Kumar Arimilli	: DECISION ON REQUEST FOR
Patent Number	: 7586936	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **712** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DUANE MORRIS LLP - PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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OFFICE OF PETITIONS

In re Application of	:	
Chaturvedi, Ashok	:	DECISION ON PETITION
Application No. 11/097,609	:	TO WITHDRAW
Filed: April 1, 2005	:	FROM RECORD
Attorney Docket No. E3566-00002	:	

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 21, 2009.

The request is **NOT APPROVED**.

The Request for Withdrawal as Attorney or Agent and Change of Correspondence Address is hereby not accepted. Petitioner has not complied with current USPTO requirements, as set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, 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, 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 replies that may be due and the time frame within which the client must respond.

Petitioner has not complied with the above certifications. It is suggested that petitioner submit a properly completed PTO/SB/83 (effective date May 12, 2008), which provides a section wherein practitioners may certify the completion of the above-listed activities necessary for the request to withdraw from representation to be granted.

Further, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DUANE MORRIS LLP - PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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JUL 2 4 2009

OFFICE OF PETITIONS

In re Application of

Ashok CHATURVEDI
Application No. 11/097,609
Filed: April 1, 2005
Attorney Docket No. **E3566-00002**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 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 Gerald K. Kita 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 sole 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: **ASHOK CHATURVEDI**
110, FIRST FLOOR, BHANOT CORNER
PAMPOSH ENCLAVE, GREATER KAILASH -1
NEW DELHI, INDIA 110 043

cc: **ANAND AND ANAND**
B-41 NIZMUDDIN EAST
NEW DELHI, INDIA 110 013

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MARC E. HANKIN, ESQ.
11414 THURSTON CIRCLE
LOS ANGELES, CA 90049

Mail Date: 04/20/2010

Applicant	: Arnold Schwartz	: DECISION ON REQUEST FOR
Patent Number	: 7628433	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,614	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/30/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **890** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/02/2010

Applicant	: Harsha L. Narayan	: DECISION ON REQUEST FOR
Patent Number	: 7668160	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/097,628	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **974** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/097,642	04/01/2005	Charles Slaten	200408433-1	6791

7590 04/15/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
COLES, EDWARD L

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
04/15/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY 11097642
04/06/2005 FFANAEIA 00000010 082025
02 FC:1111 500.00 CR
04 FC:1202 150.00 CR

FORM PET651G (Rev. 08/07)

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F. JASON FAR-HADIAN
CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Lando Noam Ishak, et al.	:	
Application No. 11/097,644	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 1005-31-01 USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 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 practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

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OFFICE OF PETITIONS

F. JASON FAR-HADIAN
CENTURY IP GROUP, INC.
P.O. BOX 7333
NEWPORT BEACH CA 92658-7333

In re Application of	:	
Lando Noam Ishak	:	
Application No. 11/097,645	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 1005-30-01 USP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 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 practitioners were not appointed by customer number. In order to withdraw by customer number practitioners must be appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: IXI MOBILE (R&D), LTD
PO BOX 2543
17 HA 'TIDHAR ST
RA'ANANA, 43665 ISRAEL

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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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: John W. St. Ores	: DECISION ON REQUEST FOR
Patent Number	: 7594889	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **399** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 04/20/2010

Applicant	: Andrew William Hogue	: DECISION ON REQUEST FOR
Patent Number	: 7587387	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,689	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **298** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Morgan, Lewis & Bockius LLP/Google
2 Palo Alto Square
3000 El Camino Real, Suite 700
Palo Alto, CA 94306

Mail Date: 05/17/2010

Applicant : Andrew William Hogue
Patent Number : 7587387
Issue Date : 09/08/2009
Application No : 11/097,689
Filed : 03/31/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **380** 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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HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON, AZ 85718

Mail Date: 04/20/2010

Applicant	: Shinichi Nishida	: DECISION ON REQUEST FOR
Patent Number	: 7619710	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **461** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Michael V. Chobotov	:	
Application No. 11/097,718	:	DECISION ON PETITION
Filed: April 1, 2005	:	TO WITHDRAW
Attorney Docket No. 1880-16	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2005.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Alicia Kelley at 571-272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: HOFFMANN & BARON LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

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OCT 14 2009

OFFICE OF PETITIONS

In re Application of Grindahl, et al. Application No. 11/097,736 Filed: April 1, 2005 Attorney Docket No. NN00001-D04	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 5, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 5, 2009. Accordingly, the date of abandonment of this application is June 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 payment of $755.00 towards the large entity issue fee and authorization to charge the deficiency owed, which is $755.00, and the publication fee of $300.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Pursuant to petitioners' authorization, deposit account no. 50-2117 will be charged the $755.00 balance owed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3230.

This application is being referred to the Office of Data Management for processing into a patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

MICHAELSON & ASSOCIATES
P.O. BOX 8489
RED BANK, NJ 07701

In re Application of	:	
KUPERSHMIDT, V. et al.	:	
Application No. 11/097,745	:	DECISION ON PETITION
Filed: April 01, 2005	:	TO WITHDRAW
Attorney Docket No. **K2O-3/2APP**	:	FROM RECORD
	:	

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 16, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Michaelson & Associates has been revoked by the applicant of the patent application on February 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **EMCORE CORPORATION**
1600 EUBANK BLVD, S.E.
ALBUQUERQUE NM 87123

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Paper No.

EDWARDS ANGELL PALMER & DODGE
LLP
P.O. BOX 55874
BOSTON MA 02205

MAILED

JUN 29 2010

OFFICE OF PETITIONS

Applicant: Virji	ON PETITION
Application No. 11/097,749	ON REQUEST FOR RECONSIDERATION
Filed: April 1, 2005	OF PATENT TERM ADJUSTMENT
Attorney Docket No. 63221(50221)	

This is a decision on the petition filed on January 1, 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 seventy-three (73) 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 seventy-three (73) days is **GRANTED-in-PART.**

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 73 days.

In view of the Federal Circuit decision Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010), patentees request is granted-in-part. In the instant situation, patentees do not dispute the "A" period delay of 55 days.

Patentees err in the "B" period calculation. In that, the period is calculated from the day after the 36 months, i.e. from April 2, 2008 until one day before the filing of an RCE or the issue date. In this case the issue date is November 11, 2008; hence the "B" period extends from April 2, 2008 to November 11, 2008 for a total of 224 days. However, the "B" total delay has an adjustment resulting from the filing of a Notice of Appeal on February 11, 2008 and ending on March 20, 2008 with the Mailing of the Notice of Allowance, for a total of 39 days. As a result the "B" net delay is 224 days minus 39 days. Thus, the PTA term is the total "A" delay of 55 days, plus the total "B" delay of 185 days, minus applicant's delay of 183 days, minus the "A" and "B" overlap of 23 days for a total of 73 days. As a result the request of a total PTA of 73 days is **granted-in-part.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The applicant is giving **one month or thirty (30) days** whichever is longer to reply to this DECISION. After the response period has elapsed, the Office will *sua sponte* issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seventy-three (73) days.

Telephone inquiries specific to this decision should be directed to Maria Nuzzolillo, Legal Advisor, at (571) 272-8150, or the undersigned at 571-272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,449,324 B2

DATED : November 11, 2008 **Draft**

INVENTOR(S) : Virji

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 (73) days

Delete the phrase "by 41 days" and insert – by 73 days--

Day : Monday
Date: 6/28/2010

PALM INTRANET

Time: 15:24:42

PTA Calculations for Application: 11/097749			
Application Filing Date:	04/01/2005	PTO Delay (PTO):	224
Issue Date of Patent:	11/11/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	183
Post-Issue Petitions:	0	Total PTA (days):	73
PTO Delay Adjustment:	32		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
63	06/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	32		
58.5	10/22/2008	PTA 36 MONTHS	169		
58	11/11/2008	PATENT ISSUE DATE USED IN PTA CALCULATION	23		50
57	10/13/2008	EXPORT TO FINAL DATA CAPTURE			
56	10/10/2008	DISPATCH TO FDC			
55	10/09/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
54	10/09/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
53	09/29/2008	PUBS CASE REMAND TO TC			
52	07/03/2008	FINISHED INITIAL DATA CAPTURE			
51	06/25/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
50	06/19/2008	ISSUE FEE PAYMENT VERIFIED			
49	06/19/2008	ISSUE FEE PAYMENT RECEIVED			
48	04/03/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
47	03/24/2008	EXPORT TO INITIAL DATA CAPTURE			
46	03/20/2008	MAIL NOTICE OF ALLOWANCE			
45	03/06/2008	ISSUE REVISION COMPLETED			
44	03/06/2008	DOCUMENT VERIFICATION			
43	03/06/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	03/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
41	03/06/2008	NOTICE OF ALLOWABILITY			
39	02/26/2008	DATE FORWARDED TO EXAMINER			
38	02/11/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			

37	02/11/2008	NOTICE OF APPEAL FILED		93	35
36	02/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	08/10/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	08/06/2007	FINAL REJECTION			
33	06/16/2007	DATE FORWARDED TO EXAMINER			
32	05/29/2007	RESPONSE AFTER NON-FINAL ACTION		90	30
31	05/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	11/29/2006	MAIL NON-FINAL REJECTION			
29	11/27/2006	NON-FINAL REJECTION			
28	07/25/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	09/12/2006	DATE FORWARDED TO EXAMINER			
26	09/05/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
25	09/05/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	08/03/2006	CORRESPONDENCE ADDRESS CHANGE			
23	07/03/2006	MAIL RESTRICTION REQUIREMENT	32		-1
22	06/26/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
21	11/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
20	11/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	08/11/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
18.7	07/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/25/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	07/25/2005	MISCELLANEOUS INCOMING LETTER			
16	07/25/2005	PRELIMINARY AMENDMENT			
15	08/24/2005	APPLICATION DISPATCHED FROM OIPE			
14	08/25/2005	APPLICATION IS NOW COMPLETE			
13	07/25/2005	ADDITIONAL APPLICATION FILING FEES			
12	07/25/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	07/25/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
		A STATEMENT BY ONE OR MORE INVENTORS			

10	07/25/2005	SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9.	07/25/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	08/02/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
7	05/23/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	05/13/2005	CLEARED BY L&R (LARS)			
3	04/18/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	04/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/01/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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ESCONDIDO CA 92029

In re Application of: KIM, Sinil, et al. U.S. Application No.: 11/097,756 Filing Date: April 01, 2005 Attorney's Docket No.: 0001-041002 For: SUSTAINED-RELEASE LIPOSOMAL ANESTHETIC COMPOSITIONS	: : : : : :	DECISION ON PETITION TO REVIVE ABANDONED APPLICATION UNDER 37 CFR 1.137(b)

The petition to revive international application PCT/US98/19583 under 37 CFR 1.137(b) filed on April 01, 2005 and supplemented on November 03, 2006 in the above-captioned application is hereby **GRANTED** as follows:

The statement in the supplemental submission filed November 03, 2006 that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies the requirements of 37 CFR 1.137(b)(3).[1] It is noted that the international application has been abandoned for an extended period of time. The USPTO is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. At 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the USPTO). Based on the above, item (3) above is considered satisfied.

International application PCT/US98/19583 became abandoned as to the United States of America at midnight on March 18, 2000 for failure to timely pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

International application PCT/US98/19583 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 11/097,754.

---

[1] The statement of unintentional delay included in the original petition filed April 01, 2005 was insufficient in that the original petition did not clearly identify the application to which such statement was directed.

This application is being referred back to Technology Center GAU 1615 for further processing.

Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459

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BEYER LAW GROUP LLP/APPLE INC.
P.O. BOX 1687
CUPERTINO, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Aram Lindahl	: DECISION ON REQUEST FOR
Patent Number	: 7664558	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1055** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 Apr-07

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Glickman et al.	:	
Application No. 11/097,783	:	DECISION ON PETITION
Filed: 1 April, 2005	:	
Attorney Docket No. 11120/9	:	

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.181 FOR THE WITHDRAWAL OF HOLDING OF ABANDONMENT," filed 8 December, 2006 (certificate of mailing date 4 December, 2006).

The petition is **GRANTED**.

On 23 March, 2006, the Office mailed a non-final Office action, which set a three-month shortened statutory period for reply. In the apparent absence of a timely filed response, the application was held abandoned on 24 June, 2006. Notice of Abandonment was mailed on 4 October, 2006.

In the petition, applicants assert that the practitioner did not receive the non-final Office action.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the

practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by registered practicioner John G. Rauch 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 petitioners' docket record is supplied with the petition.

A review of the record indicates that the USPTO mailed the nonfinal Office action to the correct correspondence address; however, it was inexplicably returned to the USPTO on 27 March, 2006. For this reason, the practitioner did not receive the nonfinal Office action of 23 March, 2006.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

As petitioner has submitted a reply to the non-final Office action with the present petition, the Office action will not be remailed. Rather, the response will be considered timely filed.

The application is being referred to Technology Center Art Unit 2624 for further processing.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULLBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES, CA 90071

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of
Robert A. Lewis et al.
Application No. 11/097,794
Filed: March 31, 2005
Attorney Docket No. 7285-133/10503592

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition filed October 31, 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 31, 2005, without an oath or declaration. Accordingly, on April 27, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

In response, the instant petition under 37 CFR 1.47(a), an oath or declaration naming Robert A. Lewis, Joey J. Kitabyashi and David A. Wolff as joint inventors but only executed by inventors Lewis and Kitabayashi, a late filing surcharge and a request for a four month extension of time were filed. The petition argues that joint inventor Wolff refuses to sign the oath or declaration and thus by his actions, to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were forwarded to and received by Mr. Wolff 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 2871 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 06/01/2010

Applicant	: Stephen Hilla	: DECISION ON REQUEST FOR
Patent Number	: 7623455	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/097,798	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1102** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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.
11/097,813	04/01/2005	C. Martin Rasmussen	1372.40.1	7023

22913 7590 01/25/2008
WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER
HURLEY, KEVIN

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
01/25/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080111

DATE : January 25, 2008

TO SPE OF : ART UNIT 3611

SUBJECT : Request for Certificate of Correction on Patent No.: 7,114,737

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: /Lesley Morris/ **Art Unit** 3611

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JUN 29 2007

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Application of	:	
BARBER, Simon	:	
Application No. 11/097,826	:	DECISION ON PETITION
Filed: April 01, 2005	:	TO WITHDRAW
Attorney Docket No. **021380-000510US**	:	FROM RECORD
	:	

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 05, 2007 and April 10, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on June 18, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **CARR & FERRELL LLP**
2200 GENG ROAD
PALO ALTO, CA 94303

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/097,826	04/01/2005	Simon Eric Miani Barber	021380-000510US

CONFIRMATION NO. 4443

OC000000024502927

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

Date Mailed: 06/22/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/18/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/097,826	04/01/2005	Simon Eric Miani Barber	021380-000510US

CONFIRMATION NO. 4443

OC000000024502897

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Date Mailed: 06/22/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/18/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Eason
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 04/21/2010

Applicant	: Mehul D. Bastawala	: DECISION ON REQUEST FOR
Patent Number	: 7587400	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,862	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ORACLE INTERNATIONAL CORPORATION
c/o VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE
SUITE 108
San Jose, CA 95131

Mail Date: 05/18/2010

Applicant : Mehul D. Bastawala
Patent Number : 7587400
Issue Date : 09/08/2009
Application No : 11/097,862
Filed : 04/01/2005

: 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 **252** 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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AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

COPY MAILED
SEP 15 2008

In re Application of	:
Challita-Eid et al.	:
Application No. 11/097,864	: DECISION GRANTING PETITION
Filed: April 1, 2005	: UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 511582006205	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 3, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on April 1, 2005 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1643 for appropriate action on the amendment submitted July 3, 2008, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed application, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
11/097,864	04/01/2005	1643	875	511582006205	16	1

CONFIRMATION NO. 9129

CORRECTED FILING RECEIPT

36327
AGENSYS C/O MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

OC000000032050822

Date Mailed: 09/12/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Pia M. Challita-Eid, Encino, CA;
Arthur B. Raitano, Los Angeles, CA;
Mary Faris, Los Angeles, CA;
Rene S. Hubert, Los Angeles, CA;
Karen Jane Meyrick Morrison, Santa Monica, CA;
Aya Jakobovits, Beverly Hills, CA;

Assignment For Published Patent Application

Agensys, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 36327

Domestic Priority data as claimed by applicant

This application is a CON of 10/062,109 01/31/2002 PAT 7,067,130
which is a CON of 10/005,480 11/07/2001 ABN
This application 11/097,864
is a CIP of 10/121,024 04/10/2002
which claims benefit of 60/286,630 04/25/2001
and claims benefit of 60/282,739 04/10/2001
and claims benefit of 60/283,112 04/10/2001

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/097,864**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Nucleic acid and corresponding protein entitled 161P2F10B useful in treatment and detection of cancer

Preliminary Class

536

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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ADELI & TOLLEN, LLP
11940 San Vicente Blvd, Suite 100
LOS ANGELES CA 90049

MAILED

MAR 04 2009

OFFICE OF PETITIONS

In re Application of	:
Gallagher et al.	:
Application No. 11/097866	: DECISION ON PETITION
Filing or 371(c) Date: 03/31/2005	: UNDER 37 CFR 1.182
Attorney Docket No. KNTO.P0021	:

This is a decision on the petition under 37 CFR 1.182 to expedite processing of a concurrently filed petition and supplemental amendment, filed February 17, 2009.

This Petition is hereby **granted**.

A Decision on the Petition under 37 CFR 1.78(a)(3) and (a)(6) is being mailed on even date herewith.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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11940 San Vicente Blvd, Suite 100
LOS ANGELES CA 90049

MAILED

MAR 04 2009

OFFICE OF PETITIONS

In re Application of	:
Gallagher et al.	:
Application No. 11/097866	: DECISION ON PETITIONS
Filing or 371(c) Date: 03/31/2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. KNTO.P0021	:

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed February 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for benefit of priority to the prior-filed applications under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that this

application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Derek Woods at (571) 272-3232. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center Art Unit 2617 for consideration by the examiner of the claim for benefit of priority under 35 U.S.C. § §120 and 119(e) to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/097,866	03/31/2005	2617	2620	KNTO.P0021	29	4

CONFIRMATION NO. 4287

CORRECTED FILING RECEIPT

48947
ADELI & TOLLEN, LLP
11940 San Vicente Blvd, Suite 100
LOS ANGELES, CA 90049

OC000000034789554

Date Mailed: 03/02/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael D. Gallagher, San Jose, CA;
Rajeev Gupta, Sunnyvale, CA;

Power of Attorney: The patent practitioners associated with Customer Number 48947

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/564,696 04/22/2004
and is a CIP of 10/688,470 10/17/2003 PAT 7,127,250
which claims benefit of 60/419,785 10/18/2002
This application 11/097,866
is a CIP of 11/013,883 12/15/2004
which claims benefit of 60/552,455 03/12/2004
and claims benefit of 60/530,141 12/16/2003
and is a CIP of 10/688,470 10/17/2003 PAT 7,127,250
which claims benefit of 60/419,785 10/18/2002

Foreign Applications

If Required, Foreign Filing License Granted: 05/17/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/097,866**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for registering an unlicensed mobile access subscriber with a network controller

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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Title 35, United States Code, Section 184

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 12/2/09

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/097925 Patent No.: 7554995B2

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved In Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: ____

Nick Corsaro
NICK CORSARO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

PTOL-386 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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COZEN O'CONNOR, P.C.
1900 Market Street
Philadelphia, PA 19103-3508
Irvine, CA 92614

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SEP 19 2006

OFFICE OF PETITIONS

In re Application of	:	
BROWN-DRIVER, et al.	:	
Application No. 11/097,928	:	DECISION ON PETITION
Filed: April 01, 2005	:	TO WITHDRAW
Attorney Docket No. RTS-0531US	:	FROM RECORD
	:	

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 05, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to COZEN O'CONNOR, P.C. has been revoked by the assignee of the patent application on June 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucel
Petitions Examiner
Office of Petitions

cc: KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Davis, et al.	:	
Application No. 11/097,930	:	DECISION ON PETITION
Filed: 1 April, 2005	:	
Attorney Docket No. 9623/712	:	

This is a decision on the petition filed 1 April, 2005, seeking suspension of the rules under 37 C.F.R. §1.183 as to the requirements of 37 C.F.R.§1.52 and §1.96.

The petition is **GRANTED in part** and **DISMISSED in part**.

A review of the application file reveals that:

- the instant application was filed 1 April, 2005, and the instant petition was filed contemporaneously with the instant application–which is a child of the parent, Application No. 09/918,241 (the '241 parent);

- the instant application seeks waiver (under 37 C.F.R. §1.183[1]) of the requirements of 37

[1] The regulations at 37 C.F.R. §1.183 provide:
§ 1.183 Suspension of rules.
In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h). [47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003]

C.F.R. §1.52[2] and §1.96[3] because the parent application was filed at a time when

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[2] The regulations at 37 C.F.R. §1.52 provide in pertinent part:
§ 1.52 Language, paper, writing, margins, compact disc specifications.
* * *
(e) *Electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application or reexamination proceeding.*
(1) The following documents may be submitted to the Office on a compact disc in compliance with this paragraph:
(I) A computer program listing (see: §1.96;
(ii) A "Sequence Listing" (submitted under §1.821(c)); or
(iii) A table (see § 1.58) that has more than 50 pages of text.
(2) A compact disc as used in this part means a Compact Disc-Read Only Memory (CD-ROM) or a Compact Disc-Recordable (CD-R) in compliance with this paragraph. A CD-ROM is a "read-only" medium on which the data is pressed into the disc so that it cannot be changed or erased. A CD-R is a "write once" medium on which once the data is recorded, it is permanent and cannot be changed or erased.
(3)(I) Each compact disc must conform to the International Standards Organization (ISO) 9660 standard, and the contents of each compact disc must be in compliance with the American Standard Code for Information Interchange (ASCII).
(ii) Each compact disc must be enclosed in a hard compact disc case within an unsealed padded and protective mailing envelope and accompanied by a transmittal letter on paper in accordance with paragraph (a) of this section. The transmittal letter must list for each compact disc the machine format (*e.g.*, IBM-PC, Macintosh), the operating system compatibility (*e.g.*, MS-DOS, MS-Windows, Macintosh, Unix), a list of files contained on the compact disc including their names, sizes in bytes, and dates of creation, plus any other special information that is necessary to identify, maintain, and interpret the information on the compact disc. Compact discs submitted to the Office will not be returned to the applicant.
(4) Any compact disc must be submitted in duplicate unless it contains only the "Sequence Listing" in computer readable form required by § 1.821(e). The compact disc and duplicate copy must be labeled "Copy 1" and "Copy 2," respectively. The transmittal letter which accompanies the compact disc must include a statement that the two compact discs are identical. In the event that the two compact discs are not identical, the Office will use the compact disc labeled "Copy 1" for further processing. Any amendment to the information on a compact disc must be by way of a replacement compact disc in compliance with this paragraph containing the substitute information, and must be accompanied by a statement that the replacement compact disc contains no new matter. The compact disc and copy must be labeled "COPY 1 REPLACEMENT MM/DD/YYYY" (with the month, day and year of creation indicated), and "COPY 2 REPLACEMENT MM/DD/YYYY," respectively.
(5) The specification must contain an incorporation-by-reference of the material on the compact disc in a separate paragraph (§ 1.77(b)(4)), identifying each compact disc by the names of the files contained on each of the compact discs, their date of creation and their sizes in bytes. The Office may require applicant to amend the specification to include in the paper portion any part of the specification previously submitted on compact disc.
(6) A compact disc must also be labeled with the following information:
(I) The name of each inventor (if known);
(ii) Title of the invention;
(iii) The docket number, or application number if known, used by the person filing the application to identify the application; and
(iv) A creation date of the compact disc.
(v) If multiple compact discs are submitted, the label shall indicate their order (*e.g.* "1 of X").
(vi) An indication that the disk is "Copy 1" or "Copy 2" of the submission. See paragraph (b)(4) of this section.
(7) If a file is unreadable on both copies of the disc, the unreadable file will be treated as not having been submitted. A file is unreadable if, for example, it is of a format that does not comply with the requirements of paragraph (e)(3) of this section, it is corrupted by a computer virus, or it is written onto a defective compact disc. [43 FR 20462, May 11, 1978; paras. (a) and (d), 47 FR 41275, Sept. 17, 1982, effective Oct. 1, 1982; para. (c), 48 FR 2709, Jan. 20, 1983, effective Feb. 27, 1983; para. (d), 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; para. (c), 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; paras. (a) and (b) amended, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (a), (c) & (d) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (e) added, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000 (effective date corrected, 65 FR 78958, Dec. 18, 2000); paras. (a), (b), and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (d) revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; paras. (a) and (b) revised, 68 FR 38611, June 30, 2003, effective July 30, 2003]

[3] The regulations at 37 C.F.R. §1.96 provide:
§ 1.96 Submission of computer program listings.
<>
(a) General. Descriptions of the operation and general content of computer program listings should appear in the description portion of the specification. A computer program listing for the purpose of this section is defined as a printout that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform a desired procedure or task such as solve a problem, regulate the flow of work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications as set forth in paragraphs (b) and (c) of this section.
(b) Material which will be printed in the patent If the computer program listing is contained in 300 lines or fewer, with each line of 72 characters or fewer, it may be submitted either as drawings or as part of the specification.

> "[m]icrofiche * * * was an appropriate method of submitting such a large listing of computer code . . . [and the] microfiche is now the only surviving source of the full computer listing." (Petition at page 3.)

The instant petition is **GRANTED in part** to the extent that Petitioner may submit the microfiche in lieu of the compact disc only during the pendency of the parent, Application No. 09/918,241 (the '241 parent).

In all other respects the petition is **DISMISSED**, and Petitioner must, after issuance of the '241 parent application as a patent, make a showing why incorporation is not possible.

The petition fee will not be refunded because the petition was not occasioned by an error of the Office.

The instant application is released to OIPE for further processing, consistent with this decision, in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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(1) Drawings. If the listing is submitted as drawings, it must be submitted in the manner and complying with the requirements for drawings as provided in § 1.84. At least one figure numeral is required on each sheet of drawing.
(2) Specification.
(I) If the listing is submitted as part of the specification, it must be submitted in accordance with the provisions of § 1.52.
(ii) Any listing having more than 60 lines of code that is submitted as part of the specification must be positioned at the end of the description but before the claims. Any amendment must be made by way of submission of a substitute sheet.
(c) As an appendix which will not be printed: Any computer program listing may, and any computer program listing having over 300 lines (up to 72 characters per line) must, be submitted on a compact disc in compliance with § 1.52(e). A compact disc containing such a computer program listing is to be referred to as a "computer program listing appendix." The "computer program listing appendix" will not be part of the printed patent. The specification must include a reference to the "computer program listing appendix" at the location indicated in § 1.77(b)(4).
(1) Multiple computer program listings for a single application may be placed on a single compact disc. Multiple compact discs may be submitted for a single application if necessary. A separate compact disc is required for each application containing a computer program listing that must be submitted on a "computer program listing appendix."
(2) The "computer program listing appendix" must be submitted on a compact disc that complies with § 1.52(e) and the following specifications (no other format shall be allowed):
(I) Computer Compatibility: IBM PC/XT/AT, or compatibles, or Apple Macintosh;
(ii) Operating System Compatibility: MS-DOS, MS-Windows, Unix, or Macintosh;
(iii) Line Terminator: ASCII Carriage Return plus ASCII Line Feed;
(iv) Control Codes: the data must not be dependent on control characters or codes which are not defined in the ASCII character set; and
(v) Compression: uncompressed data.
[46 FR 2612, Jan. 12, 1981; para. (b)(1), 54 FR 47519, Nov. 15, 1989, effective Jan. 16, 1990; revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (b) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000 (effective date corrected, 65 FR 78958, Dec. 18, 2000]

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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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SEP 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Kanae Nakagawa et al.	:	
Application No. 11/097,937	:	DECISION GRANTING PETITION
Filed: April 1, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 052378	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 21, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 11, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2822 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Paul Fredric Klein	: DECISION ON REQUEST FOR
Patent Number	: 7580365	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,938	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **861** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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BIRCH, STEWART, LOLASCH & BIRCH, LLP
P.O. BOX 747
FALLS CHURCH, VA 22040-0747

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of
Ursula Buchholz et al.
Application No. 11/097,946
Filed: March 31, 2005
Attorney Docket No. **1173-1044PUS3**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed November 4, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 33883 has been revoked by the assignee of the patent application on November 4, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891

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DEC 22 2009

OFFICE OF PETITIONS

In re Application of :
Ursula Buchholz et al. :
Application No. 11/097,946 : ON PETITION
Filed: March 31, 2005 :
Attorney Docket No. **1173-1044PUS3** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 4, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 13, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 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 a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the

filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the JoAnne Burke at (571)272-4584.

This application is being referred to Technology Center AU 1648 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/097,947	04/01/2005	3626	1130	1-17004	2	11	2

CONFIRMATION NO. 5996

UPDATED FILING RECEIPT

OC000000016730968

1678
MARSHALL & MELHORN
FOUR SEAGATE, EIGHT FLOOR
TOLEDO, OH 43604

Date Mailed: 08/10/2005

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)

Adrian Gore, Gauteng, SOUTH AFRICA;
Kenneth Steven Rabson, Johannesburg, SOUTH AFRICA;
Herschel Phillip Mayers, Johannesburg, SOUTH AFRICA;

Power of Attorney:

Phillip Oberlin–19066
D Dolgorukov–26266
Donald Schurr–34247
Mark Hixon–44766
Stephen Evans–47281
Stephen Kimmet–52488

Domestic Priority data as claimed by applicant

Foreign Applications

SOUTH AFRICA 2004/2587 04/01/2004

If Required, Foreign Filing License Granted: 04/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/097,947

Projected Publication Date: 11/17/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method of managing a life insurance policy and a system therefor

Preliminary Class

705

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 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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DEC 21 2007

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ROBIN M. SILVA
MORGAN, LEWIS & BOCKIUS LLP
ONE MARKET, SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

In re Application of	:
DESJARLAIS et al	:Decision on Petition
Serial No.: 11/097,960	:
Filed : 31 March 2005	:
Attorney Docket No.: 067461-5017-US	:

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 21 March 2007. The delay in acting upon this petition is regretted.

BACKGROUND

The petition filed under 37 CFR 1.144 requests reconsideration of the restriction requirement mailed 10 August 2006.

The restriction requirement mailed 10 August 2006 restricted the pending claims 1-27 to one variant BMP-7 protein as recited in Claim 1.

On 8 September 2006, applicants elected variant Vb(120) with traverse.

In the Office action mailed 21 December 2006, the examiner considered the traversal and made the restriction requirement FINAL. Claims 1, 11, 14 and 24 were under examination. Claims 2-10, 12, 13, 15-23 and 25-27 were withdrawn from consideration. Claims 11 and 24 were objected to. Claim 1 was rejected under 35 USC 102(e) as being anticipated by Rueger et al. Claim 14 was rejected under 35 USC 102(b) as being anticipated by Wharton et al.

Along with a response to the Office action, this petition was filed 21 March 2007, before the filing of a Notice of Appeal and is thus considered timely.

DISCUSSION

The petition and file record have been considered carefully.

Claim 1 is directed to a variant BMP-7 protein that permits variation at one or more residues 21, 39, 65, 72, 78, 93, 120 and 135. The other residues of the variant protein correspond to BMP-7

(SEQ ID No 5.) At most points of variation, only a single residue substitution is possible. For example, at position 21, the Leucine residue of BMP-7 may be substituted for a Glycine. At a small handful of positions, a several options are possible. For example, the Phenylalanine at position 93 may be substituted by a Histidine, a Serine or a Threonine. In all, the BMP-7 variant proteins, encompassed by claim 1, require 127 of the 135 residues of SEQ ID No 5. Applicants are correct that this claim is comparable to a chemical structure formula that sets forth several points of variation.

MPEP 803 discusses the two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

Applicants are correct that the BMP-7 proteins are not independent inventions. They are related in terms of structure, function and effect. The BMP-7 proteins share a common structure (127 out of 135 residues). The BMP-7 proteins also share a common function. For example, paragraph 0147 of the specification (page 60) shows variants recited in claim 1 with increased levels of expression.

> **[0147] Preferred modifications include those modifications that increase the expression yield in 293T cells by at least 2-fold, including but not limited to L21N, K39A, K39S, Q53D, Q53T, I57L, E60Q, A63E, A63Q, A63R, A63S, Y65D, Y65N, A72D, A72E, A72H, A72K, A72S, F73H, N76A, N76D, N76S, N76T, Y78D, Y78N, Y78T, I86A, I86D, I86E, I86K, I86Q, F93H, E97D, T98K, N110D, A111S, Y116H, F117H, F117Y, S120D, R129D, N130D, R134E, R134L, R134S, A135E, A135S, and H139R. Especially preferred modifications include those modifications that increase the expression yield in 293T cells by at least 5-fold, including but not limited to A63Q, A63S, Y65D, Y65N, A72D, F73H, Y78N, Y78T, I86A, and R134L. Furthermore, a silent mutation at Y116 from codon TCA to codon TAT was observed to increase the expression yield in 293T cells by 2.6-fold.**

Applicants argue that the search and examination of the BMP-7 variants would not be unduly burdensome. Applicants are correct, in part, with regard to examination of a variant requiring a single substitution at a particular site as compared to variants requiring additional substitutions at other sites. For example, if a BMP-7 variant containing the Vb(120) substitution were found novel and unobvious (as it appears so, given the lack of any prior art rejection on claim 11 and 24) then any BMP-7 variant which required the Vb(120) substitution would also be novel and unobvious (given the same effective filing date).

The BMP-7 variants are recited in the alternatives within a single claim. As such, the claim is entitled to examination practice set forth in MPEP 803.02 and 809. The examiner will begin search and examination of elected species Vb(120). Should all claims directed to that species become allowable, the examiner will extend the search and examination to second and subsequent species of her choosing.

DECISION

For this reason, the petition filed under 37 CFR 1.144 is **GRANTED**.

The application will be forwarded to the Examiner to consider papers filed on 21 March 2007 and for a non-final Office action consistent with this decision.

Should there be any questions regarding this decision, please Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 571-273-8300.

John LeGuyader
Director, Technology Center 1600

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TECHNOLOGY CENTER 2600

IP STRATEGIES
12 ½ WALL STREET
SUITE I
ASHEVILLE, NC 28801

In re Application of:
Cyriac Roeding
Application No. 11/097,965
Filed: March 30, 2005
For: **ELECTRONIC DEVICE AND METHODS FOR REPRODUCING MASS MEDIA CONTENT**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed August 12, 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 fails to fully meet requirement of items (4) and (5). There is no detailed discussion of the search method employed, such as classes and subclasses searched, etc. A statement that a search "..has been made by attorney" is not sufficient. The petition also lacks a copy of each of the references most closely related to the subject matter encompassed by the claims, item (5).

Accordingly, the petition is **DENIED**.

Petitioner may submit a request for reconsideration within **TWO MONTHS** of the date of this decision. Any request for reconsideration should include a complete discussion of the search method employed in order to comply with item (4) above, and a copy of each of the references in order to comply with item (5) above.

Doris To
Special Program Examiner
Technology Center 2600
Communications

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Todd R. Fronek
Westman, Champlin & Kelly
Suite 1600
900 Second Avenue South
Minneapolis MN 55402-3319

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OFFICE OF PETITIONS

In re Application of William Parry, Lee Mingtzong, Christopher Lorton, Jayachandran Raja, and Serge Smirnov Application No.11/097,966 Filed: April 1, 2005 Attorney Docket No. M61.12-0835 Title of Invention: Streaming Information Appliance with Buffer Read and Write Synchronization	:	DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed August 15, 2005, under 37 C.F.R. §1.47(a).

Petitioner has shown the non-signing inventor Parry has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor's failure to respond to the application mailing sufficiently establishes he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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William G. Parry
6731 153rd Place SE,
Bellevue, WA 98006

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of
William Parry, Lee Mingtzong, Christopher Lorton, Jayachandran Raja, and Serge Smirnov
Application No.11/097,966
Filed: April 1, 2005
Attorney Docket No. M61.12-0835
Title of Invention: Streaming Information Appliance with Buffer Read and Write Synchronization

LETTER

Dear Mr. Parry :

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, applicant (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Todd R. Fronek
Westman, Champlin & Kelly
Suite 1600
900 Second Avenue South
Minneapolis MN 55402-3319

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HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

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OFFICE OF PETITIONS

In re Application of	:	
Benjamin L. Wright and Douglas L. Peckover	:	
Application No. 11/097,974	:	DECISION GRANTING PETITION
Filed: April 1, 2005	:	UNDER 37 CFR 1.47(a)
For: PROTECTION OF PRIVACY DATA	:	

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 22, 2005.

The petition is **granted**.

Petitioner has shown that non-signing inventor Douglas L. Peckover 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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOUGLAS L. PECKOVER
7122 BROOKSHIRE CIRCLE
DALLAS, TX 75230

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OFFICE OF PETITIONS

In re Application of
Benjamin L. Wright and Douglas L. Peckover
Application No. 11/097,974
Filed: April 1, 2005
For: PROTECTION OF PRIVACY DATA

Dear DOUGLAS L. PECKOVER:

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

HAYNES AND BOONE, LLP
901 MAIN STREET, SUITE 3100
DALLAS, TX 75202

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789

In re Application of Wright et al. Application No. 11/097,974 Filed: April 1, 2005 Attorney Docket No. 35207.31	: : : : : :	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 23, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to HAYNES AND BOONE, LLP has been revoked by the assignee of the patent application on February 21, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Younan Xia	: DECISION ON REQUEST FOR
Patent Number	: 7575707	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,975	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/29/2005	: 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.

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MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS FL 33410

In re Application of	:	COPY MAILED
Lepivert et al.	:	
Application No. 11/097991	:	JAN 3 1 2008
Filing or 371(c) Date: 03/31/2005	:	OFFICE OF PETITIONS
Attorney Docket Number:	:	
03/31/2005	:	ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed May 8, 2006. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed June 22, 2005. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned August 23, 2005. A Notice of Abandonment was mailed March 15, 2006.

Applicant files the present petition, a petition under 37 CFR 1.47(a), and oath/declaration in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply[1]; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to the Office of Patent Application Processing for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] A Decision on the petition under 37 CFR 1.47(a) is being mailed under separate cover on even date herewith.

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ALEXANDRIA, VA 22313-1450
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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: Raibekas et al.
Appl. No.: 11/097,993
Filing Date: November 6, 2003
Title: METHODS OF REDUCING AGGREGATION OF IL-1RA
Attorney Docket No.: 06843.0093-00000
Pub. No.: US 2005/0271618 A1
Pub. Date: December 8, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on February 7, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
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
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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Gale E. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7598075	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/097,994	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **454** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

RICHARD A. FAGIN
P.O. BOX 1247
RICHMOND TX 77406-1247

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OFFICE OF PETITIONS

In re Application of :
Joel Walls et al. :
Application No. 11/098,010 :
Patent No. 7,088,639 :
Filed: April 2, 2005 :
Issue Date: August 8, 2006 :
Attorney Docket No. RSI-04-06 :
Title: METHOD FOR DETERMINING :
FORMATION QUALITY FACTOR FROM :
WELL LOG DATA AND ITS :
APPLICATION TO SEISMIC :
RESERVOIR CHARACTERIZATION :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.28(c)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 C.F.R. § 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 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 C.F.R. § 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 C.F.R. § 1.28 is hereby accepted. The petition is **GRANTED** accordingly.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded

concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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KENT S. BURNINGHAM ESQ.
KENT S. BURNINGHAM
466 SOUTH 500 EAST
SALT LAKE CITY UT 84102

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JUL 09 2008

OFFICE OF PETITIONS

In re Application of	:
Verl Law	:
Application No. 11/098,040	: DECISION GRANTING PETITION
Filed: April 1, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 2415.6801US	:

This is a decision on the petition under 37 CFR 1.137(b), filed October 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment and a terminal disclaimer/fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed January 19, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3711 to consider the reply received October 17, 2007.

Karen Creasy
Petitions Examiner
Office of Petitions

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BACHMAN & LAPOINTE, P.C. (P&W)
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510-2802

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OFFICE OF PETITIONS

In re Application of	:	
Robert M. RICE et al.	:	
Application No. 11/098,064	:	DECISION ON PETITION
Filed: April 04, 2005	:	
Attorney Docket No. **PA-085.11382-U(05-142)**	:	

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 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 this decision.

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 22, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (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). A three (3) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1792 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Paper No. None

SCHLUMBERGER OILFIELD SERVICES
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MD 200-9
SUGAR LAND TX 77478

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JUL 21 2006

OFFICE OF PETITIONS

In re Application of Eldad Haber et al. Application No. 11/098,073 Filed: April 4, 2005 Attorney Docket Number: 23.0016-D1 Title: DETERMININATION OF BOREHOLE GEOMETRY INSIDE CASED WELLS WITH CROSSWELL ELECTROMAGNETICS	DECISION ON PETITION UNDER 37 C.F.R. §1.137(b)

This is a decision on the petition filed on March 17, 2006, pursuant to 37 C.F.R. §1.137(b)[1], to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Supplemental Notice of Allowability, mailed November 21, 2005, which set a shortened statutory period for reply of three (3) months[2]. No extensions of time are permitted

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1 A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

2 It is noted that corrected drawings were timely received on December 27, 2005.

for transmitting issue or publication fees[3]. Accordingly, the above-identified application became abandoned on February 22, 2006.

With the present petition, Petitioner has submitted the petition fee, the publication fee, the issue fee, and the proper statement of unintentional delay.

As such, the petition is **GRANTED**.

After the mailing of this decision, the Office of Patent Publications will be notified of the same so that the present application can be processed into a patent.

The phone number for the Office of Patent Publication is (571) 272-4200. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

3 See MPEP §710.02(e).

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DELPHI TECHNOLOGIES, INC.
M/C 480-410-202
PO BOX 5052
TROY MI 48007

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael L. Gerig	:	
Application No. 11/098,143	:	DECISION ON PETITION
Filed: March 31, 2005	:	
Attorney Docket No. DP-309678	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2009, to revive the above-identified application.

The petition is **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 replacement drawing; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance/Notice of Allowability mailed September 29, 2008, 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 the Office of Data Management to be processed into a patent and for review of the drawing submitted on February 17, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

Paper No. 20061226

12-27-06

Price, Heneveld, Cooper, Dewitt & Litton,
LLP/GENTEX CORPORATION
695 Kenmore, S.E.
P.O. Box 2567
Grand Rapids, MI 49501

In re App:	Carter, John, *et al.*	:	DECISION ON PEITION FILED
Ser. No.:	11/098,163	:	June 8, 2006
Filing Date:	April 4, 2005	:	
For:	REARVIEW MIRROR WITH	:	
	INTEGRATED FRAME	:	

This is a decision on the petition filed, June 8, 2006, under 37 C.F.R. § 1.144.

The petitioner indicates that the restriction of claims 1-15, under subcombinations useable together, M.P.E.P. §806.05(b), is improper, (See petition page 3, section 2). Further, the record indicates that an amendment was filed with petition and response canceling claims 5, 6 and 10-15 while also adding new claims 16 and 17. Further, a review of the Final Office action indicates that the Office practices and procedures were not properly followed.

The petition is **GRANTED**.

The Restriction and Final Office action of June 29, 2006 are hereby vacated. No response from the requester is necessary.

The application will be forwarded to the examiner for prompt issuance of an Office action with regards to claims 1-4, 7-9, 16 and 17, as filed June 8, 2006.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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TECHNOLOGY CENTER 2800

Canon U.S.A. Inc.
Intellectual Property Department
15975 Alton Parkway
Irvine, CA 92618-3731

In re Application of	:	**DECISION ON REQUEST TO**
Hidehiko ASAI, *et. al.*	:	**PARTICIPATE IN PATENT**
Application No. 11098192	:	**PROSECUTION HIGHWAY**
Filed: April 4, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. 10009757US01	:	**TO MAKE SPECIAL UNDER**
For: IMAGE FORMING SYSTEM, CONTROL METHOD, RECORDING MEDIUM, AND PROGRAM	:	**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 February 2, 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

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Hamilton & Terrile, LLP
P.O. Box 203518
Austin TX 78720

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OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	
Application No. 11/098,194	:	ON PETITION
Filed: April 4, 2005	:	
Attorney Docket No. SUN041302	:	

This is a decision on the petition under 37 CFR 1.53(e), filed May 16, 2005, requesting that the USPTO accord the above-identified application a filing date of April 4, 2005, with 26 sheets of drawings as part of the original disclosure.

On April 4, 2005, applicants deposited the above-identified application. On May 13, 2005, the Office mailed a Notice of Incomplete Nonprovisional Application, stating that the application was deposited without any drawings and that the filing date would be the date of receipt of the drawings.

In response, on May 16, 2005, applicants filed the present petition and a copy of applicants' returned, date-stamped postcard receipt acknowledging receipt of 26 sheets of drawings in the USPTO on April 4, 2005. Additionally, applicants submitted a copy of the 26 sheets of drawings with the present petition.

Upon review of the record, the 26 sheets of drawings, deposited on April 4, 2005, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 4, 2005, included 26 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application, including the 26 sheets of drawings, was complete on filing and is entitled to a filing date of April 4, 2005.

Accordingly, the petition is granted.

The Notice of Incomplete Nonprovisional Application was sent in error and is hereby vacated. Accordingly, no petition fee is necessary.

The application has undergone pre-exam processing and a corrected filing receipt was mailed on May 26, 2005, indicating that the application was accorded a filing date of April 4, 2005, with 26 sheets of drawings as part of the original disclosure. A copy of the corrected filing receipt, dated May 26, 2005, accompanies this decision.

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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Alexandria, VA 22313-1450
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MING YAT KWOK
1646 FRANCES ST.
VANCOUVER BC V51 1Z4 CA CANADA

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JUL 19 2010

OFFICE OF PETITIONS

In re Application of :
Kwok, Ming Yat :
Application No. 11/098,196 :
Filed: April 5, 2005 :
Title: MULTIPLE VARIABLE OUTLETS :
SHOOTING APPARATUS

ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed December 14, 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.

This application became abandoned for failure to timely and properly reply to the final Office action mailed July 9, 2008. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed August 31, 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).

Petitioner states, "The applicant followed the exact advice of the examiner to fill a Request for Continued Examination to address the new issues raised by the amendment." Further, "the request together with the fund and the amendment was deposited to the post office on August 13, 2009."

All final rejections set a 3-month shortened statutory period for reply. If a reply is filed within 2 months of the date of the final Office action, the shortened statutory period will expire at 3 months from the date of the final rejection or on the date the advisory action is mailed, whichever is later. In no event can the statutory period for reply expire later than 6 months from the mailing date of the final rejection.

Petitioner submitted an Amendment on September 3, 2008. Subsequently, the examiner issued an Advisory Action on October 16, 2008, which stated, "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.

If an applicant is required to reply within a shortened statutory time period, applicant may extend the time period for reply by filing a petition for an extension of time, along with the appropriate fee. In this instance, petitioner could have extended the period for reply for additional three (3) months. The period

for reply would have expired on January 10, 2009. However, no petition for extension of time was ever submitted.

Accordingly, the instant application became abandoned on October 16, 2008, the date the Advisory Action was mailed.

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. *See* Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). 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. *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).

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 $810.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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 Petitions Examiner Liana Walsh at (571) 272-3206.

/dab/
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
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Alexandria, Virginia 22313-1450
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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Jonathan S. Stinson	: DECISION ON REQUEST FOR
Patent Number	: 7641983	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/04/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

PATZIK FRANK & SAMOTNY, LTD.
150 SOUTH WACKER DRIVE, SUITE 1500
CHICAGO, IL 60606

In re Application of
Scott D. KALOUS, et *al.*
Application No. 11/098,202
Filed: April 4, 2005
Attorney Docket No. **4285-002**

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 10, 2010.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **PATZIK FRANK & SAMOTNY, LTD.** has been revoked by the assignee of the patent application on August 20, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **CHRISTOPHER HAIG**
IP ADVISORS
150 N. MICHIGAN AVENUE, SUITE 2800
CHICAGO, IL 60601