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

COPY MAILED

AUG 28 2007

OFFICE OF PETITIONS

Michele J. Young
Salter & Michaelson
321 South Main Street
Providence, RI 02903-7128

In re Application of Donahue :
Application No. 11/098,211 : DECISION ON PETITION
Filing Date: April 4, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02589-2 :

This is a decision on the petition titled, "Petition" filed April 4, 2007. The petition will be treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

Facts:

The application was filed April 4, 2005.

Per a preliminary amendment, the specification stated the application was a continuation of application no. 10/306,552.

Petitioner intended to claim priority based on application no. 10/306,532.

An amendment to the specification claiming priority based on application no. 10/306,532, was not filed until April 4, 2007.

Discussion:

Since the priority claim to application no. 10/306,532, was not filed within 4 months of the application's filing date or within 14 months from the earliest claimed priority date, a petition under 37 CFR 1.78(a)(3) is necessary for the relief requested.

A petition under 37 CFR 1.78(a)(3) must be accompanied by:

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

Director may require additional information where there is a question whether the delay was unintentional.

As to requirement (2), petitioner submitted $130 for the petition fee. However, the fee for a petition under 37 CFR 1.78(a)(3) is $1,370. Therefore, an additional $1,240 has been charged to petitioner's deposit account.

As to requirement (3), 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Petitioner has not provided such a statement. However, the statements appearing in the petition will be construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct interpretation of the statements appearing in the petition, petitioner should promptly notify the Office.

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

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

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

This application is being forwarded to Technology Center Art Unit 2835 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/098,211	04/04/2005	2833	500	02589-2	9	18	3

CONFIRMATION NO. 9151

000987
SALTER & MICHAELSON
THE HERITAGE BUILDING
321 SOUTH MAIN STREET
PROVIDENCE, RI 029037128

FILING RECEIPT

OC000000015890312

Date Mailed: 04/27/2005

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

Applicant(s)

William F. Donahue IV, Smithfield, RI;

Power of Attorney:

Elliot Salter--17486
Jodi-Ann McLane--36215
Michele Young--43299

Domestic Priority data as claimed by applicant

This application is a CON of 10/306,552 11/26/2002 ABN *
which claims benefit of 60/333,794 11/28/2001
(*)Data provided by applicant is not consistent with PTO records.

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 US11/098,211

Projected Publication Date: 08/04/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Modular power distribution unit, module for the power distribution unit, and method of using the same

Preliminary Class

439

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

COPY MAILED

NOV 27 2006

OFFICE OF PETITIONS

In re Application of :
Ross E. Perry et al :
Application No. 11/098,215 : ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. STINREP01AUSP1 :

This is a decision on the petition, filed November 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on October 24, 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 1724 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAR 11 2008

OFFICE OF PETITIONS

In re Application of :
Trent Grover :
Application No. 11/098,221 : DECISION ON PETITION
Filed: April 4, 2005 : TO WITHDRAW
Attorney Docket No. 1774.004US1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 11, 2007.

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

A review of the file record indicates that the power of attorney to Lemaire Patent Law Firm, LLP has been revoked by the assignee of the patent application on September 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.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: CHARLES A. LEMAIRE
LEMAIRE PATENT LAW FORM, PLLC
1500 RIVERVIEW OFFICE TOWER
SOUTH 34TH AVENUE
BLOOMINGTON, MN 55425-1608

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

BRADLEY ARANT BOULT CUMMINGS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1819 FIFTH AVENUE NORTH
BIRMINGHAM, AL 35203-2104

MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Marcus C. **MINGES** :
Application No. 11/098,224 : DECISION GRANTING PETITION
Filed: April 4, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P60885US02NJ** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 8, 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 5, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3617 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information disclosure statement previously filed July 15, 2008.

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

---

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

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.
11/098,228	04/04/2005	Barry Alan Morris	AD7111 US NA	3073

23906 7590 05/27/2008

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER	
WOOD, ELLEN S	
ART UNIT	**PAPER NUMBER**
1794	

NOTIFICATION DATE	DELIVERY MODE
05/27/2008	ELECTRONIC

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

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

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

PTO-Legal.PRC@usa.dupont.com

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

5-27-08

gm

In re application of	:	
Barry Alan Morris	:	DECISION
Serial No. 11/098,228	:	DENYING
Filed: April 4, 2005	:	PETITION
For: Composition Comprising Ethylene Copolymer	:	

This is a decision on the PETITION FROM REFUSAL TO ADMIT AMENDMENT, filed April 8, 2008.

On September 20, 2007, a non-final rejection was mailed which included, inter alia, rejections of all elected claims as being anticipated by or obvious over US Published Application 2002/0081358 to Galland et al. Applicant filed a response on November 13, 2007, which included an amendment of the only elected independent claim and various arguments against the rejections. The examiner responded with a final rejection mailed January 11, 2008, which withdrew the previous rejections and included new rejections against all the elected claims as being anticipated by or obvious over US Patent 6,503,637 to Van Loon. Applicant filed a proposed amendment under 37 CFR 1.116 on January 30, 2008 which requested withdrawal of the finality of the January 11, 2008 action, and which further proposed various amendments to the claims. The examiner denied entry of the amendment and refused the request to withdraw finality in the advisory action mailed April 8, 2008.

On April 8, 2008, the instant petition was timely filed and is before the Director of Technology Center 1700 for consideration. The petition requests withdrawal of the finality of the January 11, 2008 action and further requests that the amendment of January 30, 2008 be entered.

The petition is **DENIED** for the reasons below.

DECISION

MPEP 706.07(a) states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

In the instant case, applicant amended claim 1 (the only elected independent claim) to recite that 'the ethylene/methyl acrylate copolymer is derived from repeat units consisting essentially of ethylene and methyl acrylate' and argued that Galland et al. disclosed a layer of 'ethylene/methyl acrylate/cyclohexenyl methyl acrylate terpolymer (EMCM) not the ethylene/methyl acrylate.' It is clear from the file history that the amendment to claim 1 was made with the object of overcoming the Galland et al. reference. Applicant was successful in this regard and consequently the examiner's reliance upon new grounds of rejection based on Van Loon was indeed necessitated by amendment, contrary to applicant's argument.

Applicant further argues that not all claims were amended, but this argument is incorrect. By amending the sole elected independent claim, each dependent claim was likewise amended, dependent claims being construed to include all the limitations of the claim incorporated by reference into the dependent claim (37 CFR 1.75(c)).

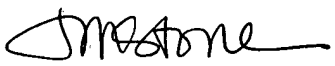
Since the new ground of rejection was necessitated by applicant's amendment, applicant's request to withdraw the finality of the January 11, 2008 action is **DENIED**.

Applicant further requests entry of the January 30, 2008 amendment. MPEP 714.13 states:

> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
> Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.

In the instant case, the proposed amendment raises new issues requiring further consideration and search in that it would require, for the first time, that the first and second layers be adhered together. The examiner was therefore correct in denying entry to the January 30, 2008 amendment.

Since the January 30, 2008 amendment raised new issues requiring further consideration and search, applicant's request to enter the January 30, 2008 amendment is **DENIED**.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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.
11/098,228	04/04/2005	Barry Alan Morris	AD7111 US NA	3073

23906 7590 03/02/2009

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

EXAMINER	
WOOD, ELLEN S	
ART UNIT	**PAPER NUMBER**
1794	

NOTIFICATION DATE	DELIVERY MODE
03/02/2009	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):

PTO-Legal.PRC@usa.dupont.com

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

3/2/09

gm

In re application of	:	
Barry Alan Morris	:	DECISION
Serial No. 11/098,228	:	DENYING
Filed: April 4, 2005	:	PETITION
For: Composition Comprising Ethylene Copolymer	:	

This is a decision on the PETITION FROM REFUSAL TO ENTER AMENDMENT AFTER FINAL, filed February 4, 2009.

A final rejection was mailed December 12, 2008. Applicant filed a proposed amendment under 37 CFR 1.116 on January 16, 2009 which proposed various amendments to the claims. The examiner denied entry of the amendment in the advisory action mailed February 4, 2009.

On February 4, 2009, the instant petition was timely filed and is before the Director of Technology Center 1700 for consideration. The petition requests entry of the January 16, 2009 amendment.

The petition is **DENIED** for the reasons below.

DECISION

Treatment of after-final amendments in discussed in MPEP 714.13, which states:

> It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
> Except where an amendment merely cancels claims, adopts examiner suggestions, removes issues for appeal, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection.

In the instant case, at the time of final rejection claim 6 required a first foil layer, a second layer in contact with the first, in which the first layer "is an ethylene/methyl acrylate copolymer" per claim 1 and in which the second layer comprises at least one polyester per claim 6 and is in contact with a third layer, the third layer comprising polyolefin or polyester.

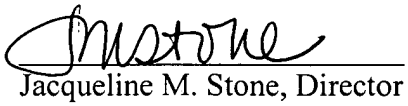
According to the proposed amendment, claim 6 would require a first foil layer, a second layer in contact with the first, in which the first layer "is an ethylene/methyl acrylate copolymer" per claim 1 and is in contact with a third layer, the third layer comprising polyester. Further, claim 8 would require that the third layer be a blend of polyester and polyolefin.

The proposed amendment would thus change the requirements for both the second and third layers.

Applicant argues that the amendment is necessary to correct inconsistencies in the claims, particularly that the second layer could not have comprised polyester, since claim 1 recites that the layer "is" EMA. However, as the claims stood at the time of the final rejection, claim 1 stated that the second layer "is" EMA, yet claim 2 recited that the second layer 'is a blend of' polyolefin and EMA. Thus the examiner would reasonably conclude that the use of "is" in claim 1 was equivalent to "comprising" rather than "consisting" since claim 2 explicitly added an additional component to the second layer. Since claim 2 added an additional component, there would be no reason to believe that claim 6 was not also simply defining the second layer as a blend.

As the claims did not previously require that the third layer comprise a blend of polyester and polyolefin, and since the previous claim language reasonably appeared to require that the second layer be such a blend, the examiner was correct in holding that he proposed amendment raised new issues.

Since the January 16, 2009 amendment raised new issues requiring further consideration and search, applicant's request to enter the January 16, 2009 amendment is **DENIED**.



Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON DE 19805

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

COPY MAILED

SEP 21 2009

OFFICE OF PETITIONS

AMD-MKE C/O FOLEY LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

In re Patent No. 7,538,026	:
Issued: May 26, 2009	: DECISION ON APPLICATION
Application No. 11/098,262	: FOR PATENT TERM ADJUSTMENT
Filed: April 4, 2005	:
Attorney Docket No. 039153-0705 (H2175)	:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed July 24, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred fifty (350) days to four hundred thirty-one (431) 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 May 26, 2009, the above-identified application matured into US Patent No. 7,538,026 with a patent term adjustment of 350 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 81 days of patent term adjustment due to exceeding three year pendency.

The 81-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 4, 2005 and a request for continued examination (RCE)

having being filed on June 24, 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 81 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 360 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 10 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 (81 days) and the period of Examination Delay (360 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 431 days, which includes the period of Three Year Delay (81 days) and the period of Examination Delay (360 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 431 days (81 + 360 reduced by 0 overlap – 10 (applicant delay)).

The Office agrees that as of the filing of the RCE on June 24, 2008, the application was pending three years and 81 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 360 days for examination delay was entered. At issue is whether patentees should accrue 81 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 360 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 81 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, April 4, 2005, to the date the RCE was filed on June 24, 2008. Prior to the filing of the RCE, 360 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 81 days for Office delay in issuing the patent overlap with the 360 days of Office delay. During that time, the issuance of the patent was delayed by 360 days, not 360 + 81 days. The Office experienced 360 days of examination delay. Otherwise, the Office took all actions set

---

[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).

forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 360 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 81 days. The Office did not delay 360 days and then an additional 81 days. Accordingly, 360 days of patent term adjustment (not 360 and 81 days) was properly entered since the period of delay of 81 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 360 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 360 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 350 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

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

COX SMITH MATTHEWS
INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO TX 78205-1521

MAILED

JUL 13 2010

OFFICE OF PETITIONS

In re Application :
Wester :
Application No. 11/098,295 : PATENT TERM ADJUSTMENT
Filed: April 4, 2005 :
Dkt. No.: E-SCAN :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT," filed March 4, 2010. This matter is being properly treated under 37 CFR 1.705(b).

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,244 days, not 992 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

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

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

---

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED

OCT 29 2009

OFFICE OF PETITIONS

In re Application of :
Matthew Potts :
Application No. 11/098,301 : DECISION ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. 200408124-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue fee, as required by the Notice of Allowance and Fee (s) Due, which was mailed May 1, 2009. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on August 2, 2009. A Notice of Abandonment was mailed on August 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the $1510 issue and publication fees, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

The $140.00 terminal disclaimer fee was inadvertently charged. Since a terminal disclaimer is not required in this instance, the fee will be refunded to deposit account 08-2025.

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) 272-3215.

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collin, Colorado 80527-2400

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

LOWRIE, LANDO & ANASTASI, LLP
E2023
One Main Street
Suite 1100
Cambridge MA 02142

COPY MAILED
DEC 20 2008

In re Application of :
Distefano et al. :
Application No. 11/098,315 : DECISION ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. E2023-703910 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a Restriction Requirement mailed January 7, 2008. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on February 8, 2007. A Notice of Abandonment was mailed on July 15, 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 reply to the restriction requirement, (2) the petition fee of $770.00, and (3) a 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 $1115.00 extension of time fee submitted with the petition on July 8, 2008 was subsequent to the maximum extendable period for reply, the fees will be refunded.

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

This application is being referred to Technology Center AU 1625 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAIL

MAY 1 3 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Peter J. Osredkar
3551 Quail Meadow Way
Eugene OR 97408

In re Application of:
OSREDKAR, VICTORIA M., et al.
Application No. 11/098,325
Filed: April 4, 2005
For: **TRANSPORTING HAZARDOUS MATERIAL USING AN OPTICAL READER OR RFID READER**

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 April 19, 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.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Jay D. Logue	: DECISION ON REQUEST FOR
Patent Number	: 7647381	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,333	: 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 **1233** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 05/18/2010

Applicant : Jay D. Logue
Patent Number : 7647381
Issue Date : 01/12/2010
Application No: 11/098,333
Filed : 04/04/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1281** 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

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

PAUL AND PAUL
2000 MARKET STREET
SUITE 2900
PHILADELPHIA, PA 19103

Mail Date: 04/26/2010

Applicant	: Zhanping Xu	: DECISION ON REQUEST FOR
Patent Number	: 7574190	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,349	: 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 **1164** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

COPY MAILED

SEP 19 2005

OFFICE OF PETITIONS

In re Application Of:
Michael Ellinger, Hans Haugeneder,
Joachim Ritter, and Sebastian Witte
Application No. 11/098,360
Filed: April 4, 2005
Attorney Docket No. ZTP02P1183
Title: METHOD AND CIRCUIT
CONFIGURATION FOR COMPUTER-
ASSISTED GENERATION OF A
GRAPHICAL USER INTERFACE

DECISION ON PETITION UNDER
37 C.F.R. §1.47(b)

This is in response to the petition under 37 C.F.R. §1.47(b)[1], filed August 31, 2005.

The above-identified application was filed April 4, 2005, without an executed oath or declaration and identifying Michael Ellinger, Hans Haugeneder, Joachim Ritter, and Sebastian Witte as the joint inventors. On April 27, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration, along with the basic filing fee. The notice set a two-month period for reply.

In reply, applicant filed the instant petition, along with the associated fee, the fee associated with the late filing of an oath or declaration, a two-month extension of time to make timely this response (the petition contains a certificate of mailing dated August 29, 2005, and it is noted that

1 A grantable petition under 37 CFR §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

August 27, 2005 fell on a Saturday), an unexecuted declaration, and copies of two sheets of paper that contain German text.

Petitioner has met requirements (1) - (3), and (6) above.

Regarding the fourth requirement, Petitioner has set forth that Mr. Ritter has refused to execute the declaration. However, there are three other non-signing joint inventors associated with this application, and the petition is silent as to whether they cannot be found or whether they also have refused to join. As such, it does not appear that any attempt has been made to locate these 3 non-signing inventors, and it does not appear that copies were provided to any of them.

Regarding Mr. Ritter, Petitioner has asserted that a copy of the application was sent to him, and he provided a response indicating that he has refused to join in the application. Petitioner has provided two letters to evince these assertions, however the text for each of these communications is written in German. Since no translation has been provided, the undersigned cannot determine the contents of either of these letters.

Regarding the fifth requirement, Rule 47(b) applicant has failed to prove sufficient proprietary interest in the subject matter to justify the filing of the application[2]. Petitioner has asserted that "BSH Bosch and Siemens Hausgarate GmBH...have obtained complete and exclusive proprietary interest in the invention[3]," however Petitioner has not provided any assignment documents which might substantiate this assertion.

Regarding the seventh requirement above, the declaration cannot be accepted as nobody has executed the declaration on behalf of the inventor[4]. On renewed petition, Petitioner should have this deficiency rectified.

For these reasons, the petition under 37 C.F.R. 1.47(b) must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(b)." This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition under 37 C.F.R. §1.47(b) should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

---

2 See MPEP §409.03(f).
3 Petition, page 1.
4 See MPEP 409.03(b)(A).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

LERNER AND GREENBERG, PA
P O BOX 2480
HOLLYWOOD FL 33022-2480

COPY MAILED

DEC 14 2005

OFFICE OF PETITIONS

In re Application Of:
Michael Ellinger, Hans Haugeneder,
Joachim Ritter, and Sebastian Witte
Application No. 11/098,360
Filed: April 4, 2005
Attorney Docket No. ZTP02P1183
Title: METHOD AND CIRCUIT CONFIGURATION FOR COMPUTER-ASSISTED GENERATION OF A GRAPHICAL USER INTERFACE

DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AS MOOT

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

The above-identified application was filed April 4, 2005, without an executed oath or declaration and identifying Michael Ellinger, Hans Haugeneder, Joachim Ritter, and Sebastian Witte as the joint inventors. On April 27, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration, along with the basic filing fee. The notice set a two-month period for reply.

The original petition was filed on August 31, 2005 and was dismissed via the mailing of a decision on September 19, 2005.

---

1 A grantable petition under 37 CFR §1.47(b) requires:

(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
   a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
   b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 CFR §1.63.

With this renewed petition, Petitioner has included a declaration which has been executed by the previously non-signing joint inventor.

As such, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED AS MOOT**.

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

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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.
11/098,365	04/04/2005	Yoshio Suzuki	075834.00668	6594

7590 01/11/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
LAO, LUN YI	
ART UNIT	**PAPER NUMBER**
2629	
MAIL DATE	**DELIVERY MODE**
01/11/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Ricardo Clemmons
Patent Publication Branch
Office of Data Management

02 FC:1111 -500.00 OP

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.
11/098,365	04/04/2005	Yoshio Suzuki	075834.00668	6594

33448 7590 01/10/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
LAO, LUN YI	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
01/10/2008	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.

Notice of Abandonment	Application No.	Applicant(s)	
	11/098,365	SUZUKI, YOSHIO	
	Examiner	Art Unit	
	Lao, Lun	2629	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
GS Reddy, et. al. :
Application No. 11/098,474 : DECISION ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. N/A :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application.

The renewed petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Office Action mailed, January 9, 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 April 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 $810, and (3) a proper statement of unintentional delay.

The Revocation and Power of Attorney and Change of Correspondence Address filed November 26, 2008 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3742 for appropriate action by the Examiner in the normal course of business on the reply received.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosure: Notice of Acceptance of Power of Attorney

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/098,474	04/05/2005	GS Reddy	2945.001US1

CONFIRMATION NO. 8943

POA ACCEPTANCE LETTER

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

Date Mailed: 01/05/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/26/2008.

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.

/dwilliams/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dimock Stratton LLP/Research In Motion Limited
20 Queen Street West, 32nd Floor, Box 102
Toronto, ON M5H 3R3
CANADA

Mail Date: 04/20/2010

Applicant	: Jerrold R. Randell	: DECISION ON REQUEST FOR
Patent Number	: 7653202	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: 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.

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

COPY MAILED

MAR 0 5 2007

OFFICE OF PETITIONS

RADER FISHMAN & GRAUER
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

In re Application of :
Kazumasa Nomoto et al :
Application No. 11/098,501 : ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. SON-2432/DIV2 :

This is a decision on the petition, filed March 2, 2007, and resubmitted on March 5, 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 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2815 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080607

DATE : June 07, 2008

TO SPE OF : ART UNIT 2129

SUBJECT : Request for Certificate of Correction on Patent No.: 7,346,597

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:

SPE: /David Vincent/ Art Unit 2129

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/21/2010

Applicant	: AnDrea Staub	: DECISION ON REQUEST FOR
Patent Number	: 7628675	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,514	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1264** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Mail Date: 04/20/2010

Applicant	: Takeshi Kaharu	: DECISION ON REQUEST FOR
Patent Number	: 7601339	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WILEY REIN LLP
1776 K. STREET N.W.
WASHINGTON DC 20006

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

Applicant: Hanselmann
Appl. No.: 11/098,540
Filing Date: April 5, 2005
Title: CHOCOLATE PRODUCTS AND INGREDIENTS AND METHODS FOR PRODUCING NOVEL OIL-IN-WATER SUSPENSIONS HAVING REDUCED WATER ACTIVITY LEVELS
Attorney Docket No.: 78972.0036-A
Pub. No.: US 2006/0121175 A1
Pub. Date: June 8, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 8, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in the chart in paragraph 53.

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

The error noted by requestor in the chart in paragraph 53 may be an Office error, but it is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the chart in this published application is due to the lack of clarity of the chart itself. The delineation of spacing in the text on the chart in the specification is not clear. In comparison to the other charts in the original specification and in the published application, this particular chart has no lines or blocking to show that it is a series of five lists rather than one. The error also does not affect the understanding of the application, as one skilled in the art who actually reads paragraph 53 can decipher that it is a list of recipes. It is generally understood that proportions cannot be greater

[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).

than 100%. The application is clearly understandable to one of ordinary skill in the art reading the application. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The chart in the application is not clearly defined, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

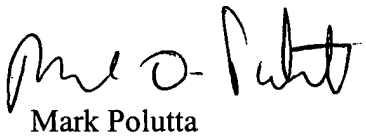
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the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

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

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

By facsimile: 571-273-8300

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



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

AUG 2 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Vavra, et al.	:	
Application No. 11/098,542	:	ON PETITION
Filed: April 5, 2005	:	
Attorney Docket No. 333151.00101	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the Notice to File Corrected Application Papers, mailed May 2, 2005, which set an extendable period for reply of two months for applicant to file replacement drawings (the Notice stated that Figure 4 was too dark). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, no reply to the Notice to File Corrected Application Papers having been received, the above-identified application became abandoned on June 3, 2005. A Notice of Abandonment was mailed on January 11, 2006.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted a reply to the Notice to File Corrected Application Papers (an amendment cancelling Figure 4).

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARENT FOX PLLC
1050 CONNECTICUT AVENUE NW
SUITE 400
WASHINGTON, DC 20036

COPY MAILED

NOV 21 2006

OFFICE OF PETITIONS

In re Application of :
Yasurou Matsuzaki :
Application No. 11/098,557 : DECISION GRANTING PETITION
Filed: April 5, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 108397-00156 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed December 7, 2005, which set a period for reply of three (3) months. The date of abandonment of this application is March 8, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (drawings, which have been approved by the Official Draftsperson; see attachment), (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of December 7, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Publishing Division.

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice of Draftsperson's Patent Drawing Review

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 05/11/2010

Applicant	: Horst Roessler	: DECISION ON REQUEST FOR
Patent Number	: 7616226	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,562	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1162** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 07/01/2010

Applicant	: Gergely Herenyi	: DECISION ON REQUEST FOR
Patent Number	: 7640542	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,576	: 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 **1128** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
DW Jan-08

MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN TX 78716-4140

COPY MAILED

JAN 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter D. Carleson	:	DECISION ON PETITION TO
Application Number: 11/098578	:	WITHDRAW HOLDING OF
Filing Date: 04/04/2005	:	ABANDONMENT
Attorney Docket Number: F195	:	

This is a decision on the petition filed on December 27, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on April 27, 2007. Notice of Abandonment was mailed on December 13, 2007.

Petitioner asserts that a reply to the Office action was timely filed. In support, petitioner has supplied a copy of a "Response to Office Action" which contains a Certificate of Facsimile Transmission dated July 26, 2007. Petitioner has also supplied a copy of the USPTO Auto-Reply Facsimile Transmission sheet, as well as a copy of the sending facsimile unit's transmission report.

37 CFR 1.8(b) states:

> 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.

The petition lacks item (3). Petitioners must include a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. Petitioners should provide a statement by the person who signed the Certificate of Transmission, Margarita Marquez.

Petitioner should provide the statement indicated above with any renewed petition. The petition is dismissed without prejudice to reconsideration, however, pending submission of the above-identified statement.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[1]

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

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

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

---

[1] 37 CFR 1.181(f).

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-08

MICHAEL O. SCHEINBERG
P.O. BOX 164140
AUSTIN TX 78716-4140

COPY MAILED

MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter D. Carleson	:	DECISION ON PETITION TO
Application Number: 11/098578	:	WITHDRAW HOLDING OF
Filing Date: 04/04/2005	:	ABANDONMENT
Attorney Docket Number: F195	:	

This is a decision on the renewed petition filed on February 22, 2008, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on April 27, 2007. Notice of Abandonment was mailed on December 13, 2007.

The petition to withdraw the holding of abandonment filed on December 27, 2007, was dismissed on January 30, 2008.

Petitioner again asserts that a reply to the Office action was timely filed. In support, petitioner has supplied a copy of a "Response to Office Action" which contains a Certificate of Facsimile Transmission dated July 26, 2007. Petitioner has also supplied a copy of the USPTO Auto-Reply Facsimile Transmission sheet, as well as a copy of the sending facsimile unit's transmission report.

The present renewed petition is also accompanied by a declaration of Margarita Marquez, in which she states that she filed the response to the Office action by facsimile on July 26, 2007.

37 CFR 1.8(b) states:

> 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.

The evidence filed with the renewed petition is considered sufficient to support a conclusion of the previous timely transmission of the reply.[1]

As petitioner has provided convincing evidence that a reply to the non-final Office action mailed on April, 27, 2007, was transmitted to the USPTO on July 26, 2007, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is **withdrawn**, and the Notice of Abandonment is **vacated**.

The application is being referred to Technology Center Art Unit 2881 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

---

[1] See 37 CFR 1.8(b)(3).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/23/09

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction for Appl. No.: 11098610
Patent No.: 7531561

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
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of Correction Branch**

703-756-1573

Thank You For Your Assistance

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

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

Comments: The request for certificate of correction dated 7/09/2009 of patent 7,531,561 has been entered.

Primary Examiner /Rei-tsang Shiao/ Art Unit 1626

/Joseph K. McKane/ **SPE** 1626 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY UT 84111

COPY MAILED

MAR 12 2008

OFFICE OF PETITIONS

In re Application of :
Albrecht, et al. :
Application No. 11/098,628 : ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. HSJ920040283US1 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 25, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action mailed August 3, 2007. This Office action set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned on November 4, 2007. The mailing of this decision precedes the mailing of a Notice of Abandonment.

Petitioner contends that he did timely file a reply. In support, petitioner has included a copy of a USPTO Electronic Acknowledgment Receipt, dated November 5, 2007 and itemizing a response.

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. Furthermore, November 5, 2007 is timely pursuant to 37 CFR 1.7(a).

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The application file is being forwarded to Group Art Unit 2627 for consideration of the Amendment filed November 5, 2007 (copy supplied with the instant petition).

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

Donald A. Kettlestrings
Suite 211
414 Hungerford Drive
Rockville, MD 20850

COPY MAILED

NOV 25 2008

OFFICE OF PETITIONS

In re Application of
Jeffrey L. Chow
Application No. 11/098,635
Filed: April 5, 2005
Attorney Docket No. 1048

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 9, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 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 $810, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 3688 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

RECEIVED
CENTRAL FAX CENTER
OCT 27 2008

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional): 1048

First named inventor: Jeffrey L. Chow

Application No.: 11/098,635 Art Unit: 3688

Filed: 04/05/2005 Examiner: A. Chomesky

Title: Marketing Method for Movie Theaters

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

10/28/2008 PCHOMP 00000018 11098635
01 FC:2453 810.00 OP

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED
CENTRAL FAX CENTER
OCT 27 2008

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

Signature	October 27, 2008 Date
Donald A. Kettlestrings Typed or printed name	24,573 Registration Number, if applicable
414 Hungerford Drive, Suite 211 Address	301-279-7577 Telephone Number
Rockville MD 20850 Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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

October 27, 2008
Date

Signature

Donald A. Kettlestrings
Typed or printed name of person signing certificate

11/098635 Examiner: CHORNESKY, ADAM GAU: 3688
Inventor: CHOW , JEFFREY Classification: 705/014.000
Status: 41 - NON FINAL ACTION MAILED
Title: MARKETING METHOD FOR MOVIE THEATERS
Start Date: End Date:

bib_fee report (4 items, not sorted)

Acct Date	Seq. Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/28/2008	21	1	2453	$810.00	10/27/2008	CC
04/06/2005	289	1	2011	$150.00	04/05/2005	CK
04/06/2005	290	1	2111	$250.00	04/05/2005	CK
04/06/2005	291	1	2311	$100.00	04/05/2005	CK

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

TUCKER ELLIS & WEST LLP
1150 HUNTINGTON BUILDING
925 EUCLID AVENUE
CLEVELAND, OH 44115-1414

Mail Date: 06/28/2010

Applicant	: Hao Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7640430	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,637	: 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 **446** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

COPY MAILED

JUN 11 2007

OFFICE OF PETITIONS

In re Application of :
FILSOUF, Ehsan :
Application No. 11/098,645 : DECISION ON PETITION
Filed: April 5, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 05-002 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed May 21, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes the statement of inventor Ehsan Filsouf, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3751 for action on the merits commensurate with this decision.

Monica A. Graves
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

7/2/07

SHELDON KAVESH, Ph. D.
16 N. POND RD.
WHIPPANY NJ 07981

In re Application of:
KOLLER, LEVENTE LAJOS
Serial No.: 11/098,646
Filed: April 4, 2005
Docket: 03-03
Title: PIEZOELECTRICALLY STIMULATED ARTICLE

DECISION ON PETITION

This is a decision on the petition filed on May 29, 2007 by which petitioner requests a withdrawal of the finality of the last Office action. The petitioner states that the final rejection is premature under Section 706.07(a) of the MPEP.

The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED**.

In the petition, petitioner argues that the examiner's rejection of claim 1 under the new ground of 35 USC § 112, first paragraph, was not necessitated by the petitioner's amendment and was premature under Section 706.07(a) of the M.P.E.P.

The record shows that:

1) On December. 28, 2006, the examiner issued a non-final Office action rejecting claim 1 based on 35 U.S.C. § 102(b). On page 7, line 15, of the non-final Office action, the examiner states, "Claim 1 is rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Rasor et al. (US Pat. No. Re. 30,366)."
2) On March 26, 2007, the petitioner filed an amendment, adding to the language of claim 1, "wherein said electrical potential is provided only when a human body is in motion."
3) On April 26, 2007, the examiner issued a final Office action rejecting claims 1 and claims 2-5, 7, 14-21 and 23-26, dependent directly or indirectly on claim 1, on the new ground of 35 U.S.C. § 112, first paragraph. On page 2, line 3, the examiner states, "the specification...does not reasonably provide enablement for the claimed device wherein said electrical potential is provided only when a human body is in motion."
4) On May 29, 2007, the current petition was filed to request a withdrawal of the finality of the Office action Apr. 26, 2007.

Discussion and Analysis

Relevant portions of MPEP 706.07(a): Final Rejection, When Proper on Second Action, states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b). 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, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), 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. Where information is submitted in a reply to a requirement under 37 CFR 1.105, the examiner may NOT make the next Office action relying on that art final unless all instances of the application of such art are necessitated by amendment.

In order to determine whether or not the amendment filed Mar. 26, 2007 necessitated the new grounds of rejection in the final Office action of Apr. 26, 2007, a comparison of the amended claims filed on Mar. 26, 2007 and the original claims filed on Dec. 6, 2006 must be made. In the preliminary amendment filed on December 6, 2006, claim 1 reads, "at least two spaced electrodes of opposite polarity for applying said electrical potential to a surface of a human body." On March 26, 2007, applicant filed an amendment to Claim 1 to read:

> "at least two spaced electrodes of opposite polarity for applying said electrical potential to a skin surface of a human body for transdermal administration of drugs, treatment of pathologies, electrocicatirization of wounds or injuries to promote healing, transcutaneous electrical nerve stimulation to relieve pain and other applications; wherein said electrical potential is provided only when a human body is in motion."

In a final Office action on April 26, 2007, the new language of claim 1 was rejected under 35 U.S.C. § 112, first paragraph. In this new rejection, the examiner emphasized that the language, "only when a human body is in motion" lacks enablement. While the second amendment was rejected on different grounds (35 U.S.C. § 112) than was the preliminary amendment of Dec. 6, 2006, M.P.E.P. Section 706.07(a) stipulates that a new ground for rejection may still be a proper final rejection if the amendment to the claim necessitates the rejection. In the instant case, the rejection on 35 U.S.C. § 112 grounds was based on the amended claim language, "only when a human body is in motion" as the reason for the second rejection (as cited in the second Office action). This amended language was not present in the preliminary claim language. Therefore, the amendment to the claims presented on Mar. 26, 2007 necessitated the new grounds of rejection presented in the final Office action issued on Apr. 26, 2007. The examiner's finality of the Office action is correct.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's finality of the Office action dated Apr. 26, 2007 is proper.

The application is being forwarded to Examiner Chang of Art Unit 3766 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. Any reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

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.
11/098,656	04/04/2005	Yoshio Suzuki	075834_00667	8075

7590 01/11/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
LAO, LUN YI	
ART UNIT	**PAPER NUMBER**
2629	
MAIL DATE	**DELIVERY MODE**
01/11/2008	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.

Richard Clemons
Patent Publication Branch
Office of Data Management

02 FC:1111 -500.00 OP

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.
11/098,656	04/04/2005	Yoshio Suzuki	075834_00667	8075

33448 7590 01/10/2008

ROBERT J. DEPKE
LEWIS T. STEADMAN
ROCKEY, DEPKE & LYONS, LLC
SUITE 5450 SEARS TOWER
CHICAGO, IL 60606-6306

EXAMINER	
LAO, LUN YI	

ART UNIT	PAPER NUMBER
2629	

MAIL DATE	DELIVERY MODE
01/10/2008	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.

Notice of Abandonment	Application No.	Applicant(s)	
	11/098,656	SUZUKI, YOSHIO	
	Examiner	Art Unit	
	Lao, Lun	2629	

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

This application is abandoned in view of:

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

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

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

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

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

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

7. ☐ The reason(s) below:

Rick Clemons □□Administrative Assistant□□Art Unit: 3900

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
SUITE 3800
MILWAUKEE, WI 53202-5308

COPY MAILED

MAY 0 1 2006

OFFICE OF PETITIONS

In re Application of :
C. Martin Rasmussen :
Application No. 11/098,664 : DECISION ON PETITION
Filed: April 4, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 038664-0128 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 31, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from Inventor C. Martin Rasmussen stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3612 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 25 2007

OFFICE OF PETITIONS

In re Application of :
Truitt et al. :
Application No. 11/098,666 : DECISION DISMISSING PETITION
Filed: 04/04/2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2072.001US2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/962,043, filed September 21, 2001.

The petition is **dismissed**.

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

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

The amendment as drafted is unacceptable, and therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition, entitled "AMENDMENT AND PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 1201, 121, OR 365(c) AND 37 CFR 1.78(a)(3)" and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified

amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Furthermore, the reference to add the prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted because 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).

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 21 2007

OFFICE OF PETITIONS

In re Application of	:	
Truitt et al.	:	
Application No. 11/098,666	:	DECISION GRANTING PETITION
Filed: 04/04/2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2072.001US2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 3, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/962,043, filed September 21, 2001.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37

CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to 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 matter is being referred to Technology Center Art Unit 2876 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

C. 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
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
11/098,666	04/04/2005	2876	1500	2072.001US2	20	3

CONFIRMATION NO. 8065

CORRECTED FILING RECEIPT

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

OC000000023956390

Date Mailed: 05/18/2007

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

Applicant(s)

Jennifer R. Truitt, Campbell, CA;
M. Brendan Philbin, San Jose, CA;
Joseph M. Lynam, Cupertino, CA;
Ken R. Dawson, Pleasanton, CA;

Assignment For Published Patent Application

PaymentOne Corporation.

Power of Attorney: The patent practitioners associated with Customer Number **21186**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/962,043 09/21/2001 PAT 7,080,049

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 US11/098,666

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for processing a transaction

Preliminary Class

235

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIRKPATRICK & LOCHHART PRESTON GATES ELLIS LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON MA 02111-2950

COPY MAILED

SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Alexander Mikhailovich Timonov, et al. :
Application No. 11/098,698 : DECISION ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. GEP-002C1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 21, 2007. Accordingly, the date of abandonment of this application is May 22, 2007.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

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

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/26/2010

Applicant	: Ariel Hendel	: DECISION ON REQUEST FOR
Patent Number	: 7664127	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,709	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **762** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MHKKG/SUN
P.O. BOX 398
AUSTIN TX 78767

COPY MAILED

DEC 26 2007

OFFICE OF PETITIONS

In re Application of	:	
Shimon Muller et al.	:	
Application No. 11/098,710	:	DECISION ON PETITION UNDER
Filing Date: April 4, 2005	:	37 C.F.R. § 1.10(D)
Attorney Docket No. SUN041301	:	
Title: REORDER MECHANISM FOR	:	
USE IN A RELAXED ORDER	:	
INPUT/OUTPUT SYSTEM	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.10(c), filed October 19, 2007, requesting the according of a filing date of April 4, 2005 to application number 11/098,710. The submission is properly treated as a petition pursuant to 37 C.F.R. § 1.10(d)

The Change of Correspondence Address that was filed on November 12, 2007 has been entered and made of record.

The application was deposited on April 4, 2005. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 11/098,710 had been accorded a filing date of April 5, 2005.

With the present petition, Petitioner has included a copy of the Express Mail label number EV469743905US[1].

Petitioner has alleged that the application was deposited on April 4, 2005, and the Patent Office has incorrectly assigned a

1 It is noted that both the Utility Patent Application Transmittal sheet and the first page of the specification contain this same Express Mail label number.

filing date of April 5, 2005 to the present application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of April 5, 2005. Petitioner has asserted that this information was incorrectly entered, and the field should indicate that the USPS received the package on April 4, 2005.

A check of the United States Postal Service's website (http://www.usps.com/shipping/trackandconfirm.htm) was inconclusive, in that it stated that "there is no record of this item." However, Petitioner has enclosed a print-out of this same website, and this print-out shows an entry of "ACCEPTANCE, April 04, 2005, 8:00 pm, AUSTIN, TX, 78799." Thus, it is clear that the USPS had possession of this package on this date.

Although the application received a filing date of April 5, 2005, the evidence is convincing that the application papers were filed on April 4, 2005, and the Patent Office assigned the incorrect date to the application based on the incorrect entry that appears on the Express Mail label. Therefore, the application was entitled to a filing date of April 4, 2005.

Accordingly, the petition is **GRANTED**.

The Office of Patent Application Processing (OPAP) will be advised of this decision. Pursuant to this decision, the application will be referred to OPAP for:

- **correction of the filing date to April 4, 2005**, and;
- **for issuance of a corrected filing receipt**.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[2].

Paul Shanoski
Senior Attorney
Office of Petitions

---

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

OIPE
MAY 0 2 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	JOHNSON, Mark at al.
Serial No.:	11/098,721
Filed:	April 4, 2005
Title:	BARBECUE GRILL AND SUPPORT FRAME ASSEMBLY
Examiner:	Alfred Basichas Art Unit: ~~3749~~ 1761
Docket:	P-0076

Commissioner for Patents
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL BASED ON MANUFACTURE

Dear Sir:

Applicant petitions the Commissioner of Patents to have U.S. Serial Application No. 11/098,721 be made special because of manufacture. Enclosed herewith is an Affirmation from Applicant supporting the Petition to Make Special.

The Applicant has made careful and thorough searches of the prior art, is submitting an Information Disclosure Statement, and is enclosing one copy of each of the references deemed most closely related to the subject matter encompassed by the pending claims.

Submitted herewith is a check for $130.00 to cover the cost of the petition to the Commissioner.

Respectfully submitted,

Dated: April 25, 2005

Dan M. de la Rosa
Reg. No. 38,429
345 East 80th St., Suite 27H
New York, NY 10021
Phone (212) 570-6597
Fax (212) 570-9053

05/03/2005 HMARZI1 00000026 11098721
01 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
Technology Center 1700
MAY 18 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 29 2005

OFFICE OF PETITIONS

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

In re Application of :
Ignatovich, et al. :
Application No. 11/098,758 : DECISION GRANTING PETITION
Filed: April 4, 2005 :
Attorney Docket No. 8039/2105B :

This is a decision on the petition filed June 17, 2005, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the allegedly omitted item.

The petition is **granted**.

On April 4, 2005, the above-identified application was filed. However, on May 12, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of April 4, 2005, and advising applicant that page 233 of the specification appeared to have been omitted. Relative to the omitted item, the Notice set a non-extendable period for reply two-months from its mailing date.

In response, on June 17, 2005, applicant filed the present petition, a copy of page 233 of the specification, and an Office date-stamped postcard receipt acknowledging receipt of 233 pages of the specification, among other items.

Upon review of the record, page 233 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited April 4, 2005, included page 233 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including page 233 of the specification, was complete on filing and entitled to the presently accorded filing date of April 4, 2005, with page 233 of the specification as part of the original disclosure.

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

The application file is being directed to the Office of Initial Patent Examination for further processing with the presently accorded filing date of April 4, 2005, using the papers filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

SEP 18 2005

MALLOY & MALLOY, P.A.
HISTORIC CORAL WAY
2800 S.W. THIRD AVENUE
MIAMI, FL 33129

In re application of	:	**DECISION ON PETITION**
Nicanor Padron et al.	:	**TO MAKE SPECIAL**
Application No. 11/098,760	:	**(APPLICANT'S AGE)**
Filed: April 4, 2005	:	
For: HEALTH SERVICES DELIVERY SYSTEM: WITH INCENTIVES	:	

This is a decision on the petition submitted on August 12, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

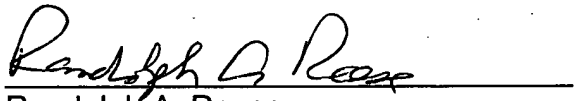
An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

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

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

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

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



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

RAR/dew: 10/05/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

VINSON & ELKINS, L.L.P.
1001 FANNIN STREET
2300 FIRST CITY TOWER
HOUSTON, TX 77002-6760

In re Application of :
William W. Chism :
Application No. 11/098,764 : DECISION GRANTING PETITION
Filed: April 4, 2005 :
Attorney Docket No. OPT080/41CIPUS :

This is a decision on the petition filed May 16, 2005, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of April 4, 2005.

Petitioner alleges that the application was deposited with the Express Mail Service on April 4, 2005. In support of the allegation, the petition is accompanied by a copy of the "Track and Confirm" sheet from the United States Postal Service website confirming that Express Mail package EV99349711US was deposited on April 4, 2005. The tracking number cited on the "Track and Confirm" sheet 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 April 4, 2005.

The Office of Initial Patent Examination will further process the application with a filing date of April 4, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Takeshi Kato	: DECISION ON REQUEST FOR
Patent Number	: 7577410	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,769	: 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 **1171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/27/2010

Applicant	: Leslie Stern	: DECISION ON REQUEST FOR
Patent Number	: 7637914	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,770	: 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 **349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 17 2009

OFFICE OF PETITIONS

In re Application of :
McCauley et al. :
Application No. 11/098,781 : ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. ORACL-01534US2 :

This is a decision on the petition under 37 CFR 1.181, filed January 21, 2009, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

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

The above-identified application was held abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 19, 2008, which set a statutory period for reply of three (3) months. A reply was due on or before December 19, 2008. A Notice of Abandonment was mailed on January 12, 2009.

Petitioner states that the reply was in fact timely filed on October 13, 2008. To support this assertion, petitioner has submitted a copy of the Issue Fee Transmittal, which bears a certificate of mailing date of October 13, 2008, along with a copy of the Auto-Reply Facsimile Transmission.

The reply submitted on October 13, 2008 is currently of record. The issue lies in the fact that when a USPTO finance operator attempted to charge the $1510.00 issue fee and $300.00 publication fee to Deposit Account No. 06-1325 on October 14, 2008 at 10:16 a.m., there were only enough funds to cover the $300.00 publication fee. Only $862.44 remained, which was inadequate to cover the requisite issue fee.

However, according to the USPTO Deposit Account Statement obtained from the Office of Finance, Deposit Account No. 06-1325 was replenished with $20,000.00 on October 14, 2008 at 10:27 a.m. Accordingly, since the money was readily available on the same day the operator attempted to charge the issue fee, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Rodney McCauley	: DECISION ON REQUEST FOR
Patent Number	: 7580953	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,781	: 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 **1112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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 Newman Chartered
Centennial Square
Post Office Box 2728
La Plata, MD 20646-2728

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of
Paul Baran et al.
Application No. 11/098,786
Filed: April 4, 2005
Attorney Docket No. GBTV06US

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 30, 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 reason set forth in the request, "[T]he undersigned attorney is retiring from the practice of law," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

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

There are no pending office actions at 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: Paul Baran
83 James Avenue
Atherton, CA 94027

cc: David Baran
GOBACKTV, Inc.
937 Hamilton Avenue
Menlo Park, CA 94025

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 Newman Chartered
Centennial Square
Post Office Box 2728
La Plata, MD 20646-2728

COPY MAILED

MAR 2 8 2007

OFFICE OF PETITIONS

In re Application of
Paul Baran et al.
Application No. 11/098,787
Filed: April 5, 2005
Attorney Docket No. GBTV07US

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 30, 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 reason set forth in the request, "[T]he undersigned attorney is retiring from the practice of law," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant.

There are no pending office actions at this time.

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: Paul Baran
83 James Avenue
Atherton, CA 94027

cc: David Baran
GOBACKTV, Inc.
937 Hamilton Avenue
Menlo Park, CA 94025

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

MAILED
FROM DIRECTORS OFFICE

JUL 21 2005

TECHNOLOGY CENTER 3600

BRUCE ROSS
2749 45TH AVENUE SW
SEATTLE, WA 98116

In re application of
Scot A. Starheim et al.
Application No. 11/098,805
Filed: April 04, 2005
For: INFORMATION PLACARD HOLDER FOR A STADIUM SEAT

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

This is a decision on the petition submitted on April 04, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

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

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

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

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

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

KJD/slb: 07/19/05

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Rhonda L. Childress	: DECISION ON REQUEST FOR
Patent Number	: 7631297	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,809	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **793** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE, SOUTH
ISELIN, NJ 08830

Mail Date: 05/05/2010

Applicant	: Martin Bergmann	: DECISION ON REQUEST FOR
Patent Number	: 7616453	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/098,816	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **559** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Viktors Berstis	: DECISION ON REQUEST FOR
Patent Number	: 7630941	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/098,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **513** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

RICHARD C. KIM
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130

MAILED

MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of :
Terrell et al. :
Application No. 11/098,831 : DECISION ON PETITION
Filed: April 4, 2005 : TO WITHDRAW
Attorney Docket No. QT1193.US : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2005.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on January 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will 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: KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE, CA 92606

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

BAKER & MCKENZIE
PATENT DEPARTMENT
2001 ROSS AVENUE
SUITE 2300
DALLAS TX 75201

COPY MAILED

DEC 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Li and Kudaravalli :
Application No. 11/098,835 :
Filed: April 5, 2005 :
Attorney Docket No. 67176397.1102 :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed October 4, 2005. Applicant obtained an extension of time for response within the third month. Accordingly, the petition is filed timely.

Applicant is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventors. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

Applicant showed that applicant could not reach Hong Li and Ravikumar Kudaravalli, the non-signing inventors, after diligent efforts. Specifically, applicant mailed copies of an assignment, a declaration, and the application to the non-signing inventors for their signatures at their last known addresses; however, the packages were returned as undeliverable. Applicant enclosed a copy the returned envelopes and a computer generated address search for the last known addresses of the non-signing inventors. Additionally, applicant provided a statement of the last known address of inventor Li. Applicant averred that the filing was necessary to preserve the rights of the parties. Lastly, applicant paid the requisite fees.

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

Applicant lacks items (2), (4) and (5) as set forth above.

As to item (2), applicant did not submit a declaration with the present petition. The Office notes that pursuant to Section 409.03(b)(A) of the Manual for Patent Examining Procedure:

> Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

Accordingly, to correct the deficiency, applicant must submit a declaration setting forth the full names, residences, post office addresses, and citizenships of joint inventors Li and Kudaravalli. Additionally, the declaration must be signed on behalf of the non-signing inventors in compliance with 37 CFR 1.63 and 1.64 as indicated above.

As to item (4), applicant failed to set forth a statement of the last known address of inventor Kudaravalli in the present petition.

As to item (5), applicant failed to show that American Medical Systems Gynecology, Inc. has sufficient proprietary interest in the subject matter to justify the filing of the application.

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.

If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324). An assignment of an application and any "reissue, division, or continuation of said application" does not itself establish an assignment of a continuation-in-part application. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956). An assignment to a 37 CFR 1.47(b) applicant for the sole purpose of obtaining a filing date for a 37 CFR 1.47(b) application is not considered an assignment within the meaning of 35 U.S.C. 118 and 37 CFR 1.47(b).

When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted. If an agreement to assign is dependent on certain specified conditions being met, it must be established by a statement of facts by someone with first hand knowledge of the circumstances in which those conditions have been met. A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.

If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter.

A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

MPEP 409.03(f).

Accordingly, the petition is dismissed.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KEVIN FARRELL
PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
PORTSMOUTH, NH 03801

COPY MAILED

FEB 08 2007

OFFICE OF PETITIONS

In re Application of :
Karen King et al :
Application No. 11/098,855 : ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. 18938-2001 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure submit the formal drawings in a timely manner in reply to the Notice of Allowance mailed September 12, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 13, 2005.

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

This file is being forwarded to the Publishing Division to be reviewed by the drawing draftperson.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of :

TESSIEN, Ross A. :
Application No. 11/098,857 : DECISION ON PETITION
Filed: April 05, 2005 : TO WITHDRAW
Attorney Docket No. **IMP024C5** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **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).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

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

COPY MAILED

FEB 19 2008

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of	:	
TESSIEN, Ross A.	:	
Application No. 11/098,857	:	DECISION ON PETITION
Filed: April 05, 2005	:	TO WITHDRAW
Attorney Docket No. **IMP024C5**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 27, 2007.

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

A review of the file record indicates that the power of attorney to PATENT LAW OFFICE OF DAVID G. BECK has been revoked by the assignee of the patent application on November 30, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SIROTE & PERMUTT, P.C.**
P.O. BOX 55727
2311 HIGHLAND AVENUE SOUTH
BIRMINGHAM, AL 35255-5727

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 Beck
Patent Law Office of David G. Beck
P.O. Box 1146
Mill Valley, CA 94942

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of :
Ross Alan Tessien :
Application No. 11/098,858 : DECISION ON PETITION
Filed: April 5, 2005 : TO WITHDRAW
Attorney Docket No. IMPO24C9 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **APPROVED**.

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

The request was signed by David G. Beck, the sole attorney of record.

David G. Beck has been withdrawn as attorney or agent of record.

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

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

There are no pending 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: Ross Tessien
c/o Impulse Devices, Inc.
1336 Grass Valley Avenue, Unit H
Grass Valley, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/098,858	04/05/2005	Ross Alan Tessien	IMP024C9

CONFIRMATION NO. 7440

OC000000023760508

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

Date Mailed: 05/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2007.

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

Kimberly Bradinet

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICES OF CHARLES. A WILKINSON
68 EAST BROAD STREET
P.O. BOX 1426
BETHLEHEM, PA 18016-1426

MAILED

MAY 14 2009

OFFICE OF PETITIONS

In re Application of :
Salvatore A. RIZZUTO JR :
Application No. 11/098,860 : DECISION ON PETITION
Filed: April 5, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **325A** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue/publication fees on or before January 23, 2009, as required by the Notices of Allowance/Allowability, mailed October 23, 2008. Accordingly, the date of abandonment of this application is January 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 payment of the issue fee of $755, the publication fee of $300, and corrected drawing(s); (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/098,862	04/04/2005	2821	1000	BA1-04-1207 (04-1207)	9	20	3

CONFIRMATION NO. 7436

41668
ROBERT R. RICHARDSON, P.S.
P. O. BOX 2677
SILVERDALE, WA 98383-2677

CORRECTED FILING RECEIPT

OC000000016131566

Date Mailed: 05/26/2005

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)

Douglas P. Morgan, Auburn, WA;
James D. Doty, Issaquah, WA;

Assignment For Published Patent Application

The Boeing Company

Power of Attorney: The patent practitioners associated with Customer Number **41668**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/098,862

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Sparse numerical array feed for compact antenna and RCS ranges

Preliminary Class

343

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

GRANTED

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of

TESSIEN, Ross A.
Application No. 11/098,868
Filed: April 05, 2005
Attorney Docket No. **IMP024**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **APPROVED**.

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

The request was signed by David G. Beck, the sole attorney of record. The undersigned attorney has been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Ross A. Tessien at the address indicated below.

There are no outstanding office actions at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN c/o IMPULSE DEVICES, INC.**
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

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

MAYNARD, COOPER, AND GALE, P.C.
1901 SIXTH AVENUE NORTH
2400 REGIONS/ HARBERT PLAZA
BIRMINGHAM, AL 35203-2618

COPY MAILED

MAY 08 2008

In re Application of Ross Alan **Tessien**
Application No. 11/098,868
Filed: April 05, 2005
Attorney Docket No. 12259-1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 26, 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 September 06, 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 December 07, 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, a Terminal disclaimer, and Terminal disclaimer fee of $65.00; (2) the petition fee of $770.00 and (3) a proper statement of unintentional delay. Accordingly, the reply to the Non-final Office action of March 26, 2008 is accepted as having been unintentionally delayed.

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 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Anthony Knight for

David A. Bucci
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : AUGUST 2, 2007

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11098873 Patent No.: 7187598B1

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

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

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

Comments: _____

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

8/29/07 2824

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 11 2009

OFFICE OF PETITIONS

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

In re Patent No. 7,462,603	:	
Papahadjopoulos, et al.	:	DECISION DISMISSING
Application No. 11/098,888	:	REQUEST FOR
Issue Date: December 9, 2008	:	RECONSIDERATION OF
Filed: April 4, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
02307E-071413US	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b), filed February 9, 2009, which is properly treated pursuant to 37 CFR §1.705(d). Patentee requests that the determination of patent term adjustment be corrected from three hundred forty-one (341) days to five hundred ninety (590) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 341 days.

BACKGROUND

This application was filed on April 4, 2005. On December 9, 2008, the application matured into U.S. Patent No. 7,462,603, with a revised patent term adjustment of 341 days. The Office determined that the 249 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 393

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 393 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 52 days, the patent issued with a revised patent term adjustment of 341 (393 - 52) days.

On February 9, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 590 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 642 (393 + 249) days as these periods do not occur on the same day.

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[2] The application was pending three years and 249 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was not mailed until July 2, 2007, fourteen months and 393 days after the application filing date, April 4, 2005.

Further, given the applicant delay of 52 days, patentee asserts entitlement to 590 (642 - 52) days of patent term adjustment.

OPINION

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

---

[5] 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.

> the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), April 4, 2005, and ending on the date the patent issued, December 9, 2008, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 393 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b),

249 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 249 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 393 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 393 days and the 249 days is neither permitted nor warranted. 393 days is the actual number of days issuance of the patent was delayed.

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

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 341 days.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Terry L. Wiles/Patrick J. O'Connell
POPOVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS MN 55402

MAILED JUN 12 2006

In re Application of: MAZZOCCHI et al.
Appl. No.: 11/098898
Filed: April 4, 2005
For: METHOD AND DEVICE FOR FILTERING BODY FLUID

: DECISION ON PETITION

This is a decision on the petition to make special filed on April 4, 2005. The $130 petition fee will be charged to Deposit Account No. 16-2312 as authorized by the petition.

The petition is granted.

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

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

The Supervisory Patent Examiner of Patent Examining Art Unit 3731 is being advised of the granting of the instant petition, and will in turn advise the examiner to whom the application is assigned of the special status of this application and the need for action consistent with this Decision.

PETITION GRANTED.

Jessica J. Harrison, Special Program Examiner
Technology Center 3700 – Mechanical Engineering,
Manufacturing and Products

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

POPOVICH WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

COPY MAILED

OCT 25 2007

OFFICE OF PETITIONS

In re Application of :
Rudy Mazzocchi et al :
Application No. 11/098,898 : ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. MVA1001USC12

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 1, 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 3734 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
11/098,951	04/05/2005	Colin E. Brench	200316260-1	6673

7590 04/15/2008

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

EXAMINER	
DEBERADINIS, ROBERT L	

ART UNIT	PAPER NUMBER
2836	

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
04/07/2005 WHGFAW1 00000051 11098951
02 FC:1111 500.00 CR
04 FC:1202 150.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-09

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

COPY MAILED

FEB 19 2009

OFFICE OF PETITIONS

In re Application of :
Hergenrother et al. :
Application Number: 11/098,952 :
Filing Date: 04/05/2005 : ON PETITION
Attorney Docket Number: :
P04014US1A :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on January 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on August 31, 2008, for failure to timely file a proper response to the final Office action mailed on May 30, 2008, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on August 29, 2008. On October 10, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on August 29, 2008 fails to place this application in condition for allowance. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained.

---

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

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

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

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

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

The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the Request for Continued Examination filed with the subject petition is acknowledged.[2] The amendment filed with the petition will be considered the submission required by 37 CFR 1.114.

The fee for an RCE will be charged to counsel's deposit account, as authorized in the response filed with the subject petition.

The application is referred to Technology Center Art Unit 1796 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

[2] 37 CFR 1.114(a) states that if prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee. Accordingly, the "Response to Office action" filed on January 8, 2009, stating a Request for Continued Examination is submitted, is considered an RCE filed pursuant to 37 CFR 1.114.

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 20 2005

LEON D. ROSEN
FREILICH, HORNBAKER & ROSEN
10960 Wilshire Blvd., Suite 1220
Los Angeles CA 90024

In re Application of	:	
James E. Rota	:	
Serial No.: 11098,973	:	DECISION ON PETITION
Filed: April 4, 2005	:	
For: Rebounder Exercise System	:	

This is in response to applicants' petition filed April 4, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, 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

WARN, HOFFMANN, MILLER,
LALONE & MCCULLOCH P.C.
5291 COLONY DRIVE NORTH
SAGINAW MI 48603

COPY MAILED

JUL 26 2005

OFFICE OF PETITIONS

In re Application of :
Richard A. Weaver et al. :
Application No. 11/099,001 : DECISION ACCORDING STATUS
Filed: April 5, 2005 : UNDER 37 CFR 1.47(a)
Title of Invention: POUCH CONSTRUCTION :

This is in response to the petition filed July 1, 2005 under 37 CFR 1.47(a).

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on April 5, 2005, without an executed oath or declaration. Accordingly, on May 2, 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 Richard A. Weaver, Christopher J.C. Zimmerman, Michael W. Czop, Joseph M. Wright, Wojciech M. Porcek, Jeremy J. Weidner, Daniel D. Hayes, Samba Toure and Michael Howe as joint inventors, but only executed by inventors Weaver, Czop, Wright, Porcek, Weidner, Hayes, Toure and Howe, and a late filing surcharge were filed. The petition argues that joint inventor Zimmerman 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. Zimmerman 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. 50-2676 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). 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 3728 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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
11/099009	04/05/05	HASSAN, SHAWKY	HSB-12202/01

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

EXAMINER	
NGUYEN, TUAN	
ART UNIT	PAPER NUMBER
3751	

DATE MAILED: 4/9/07

NOTICE OF RESCINDED ABANDONMENT

☐ **In response to your communication filed** 4/4/07

☒ **Through inadvertence, a Notice of Abandonment was mailed in the above-identified application. The Notice of Abandonment is hereby rescinded.**

For
Manager, Publications Division
Office of Patent Publication
571-272-4200

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAY 0 8 2007

OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of :
TESSIEN, Ross Alan :
Application No. 11/099,016 : DECISION ON PETITION
Filed: April 05, 2005 : TO WITHDRAW
Attorney Docket No. **IMP024C6** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **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, transferred back to the assignee, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN C/O IMPULSE DEVICES, INC.**
13366 GRASS VALLEY AVE.
UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

COPY MAILED

OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross Alan :
Application No. 11/099,016 : DECISION ON PETITION
Filed: April 05, 2005 : TO WITHDRAW
Attorney Docket No. **IMP024C6** : FROM RECORD
:

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 14, 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, I have been discharged by the client, Impulse Devices, Inc. does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVE.
UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

COPY MAILED

FEB 11 2008

OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross A. :
Application No. 11/099,016 : DECISION ON PETITION
Filed: April 05, 2005 : TO WITHDRAW
Attorney Docket No. **IMP024C6** : FROM RECORD
:

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 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 David Valley, the sole attorney of record. David Valley has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

COPY MAILED

MAY 0 8 2007

OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross Alan :
Application No. 11/099,036 : DECISION ON PETITION
Filed: April 05, 2005 : TO WITHDRAW
Attorney Docket No. **IMP024C7** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 2007.

The request is **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, transferred back to the assignee, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN C/O IMPULSE DEVICES, INC.**
13366 GRASS VALLEY AVE.
UNIT H
GRASS VALLEY, CA 95945

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

COPY MAILED

SEP 2 0 2007

OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of :

TESSIEN, Ross A. :
Application No. 11/099,036 : DECISION ON PETITION
Filed: April 05, 2005 : TO WITHDRAW
Attorney Docket No. **IMP024C7** : FROM RECORD
:

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 14, 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).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of

TESSIEN, Ross A.
Application No. 11/099,036
Filed: April 05, 2005
Attorney Docket No. **IMP024C7**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 28, 2007.

The request is **APPROVED**.

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

The request was signed by David Beck, the sole attorney of record. David Beck has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

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

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of

TESSIEN, Ross A.
Application No. 11/099,037
Filed: April 05, 2005
Attorney Docket No. **IMP023C3**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20. 2007.

The request is **APPROVED**.

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

The request was signed by David G. Beck, the sole attorney of record. The undersigned attorney has been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN c/o IMPULSE DEVICES, INC.**
13366 GRASS VALLEY AVE, UNIT H
GRASS VALLEY, CA 95945

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

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

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

In re Application of
Walter J. KISH JR.
Application No. 11/099,047
Filed: April 5, 2005
Attorney Docket No. KLO1.PAU.32

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 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 attorney wishes to withdraw by customer number, however, was not appointed by customer number. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed October 30, 2007 that requires a reply by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: CURT OLLILA,
C/O LAW GROUP LLC
2060 BROADWAY, SUITE 300
BOULDER, CO 80302

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

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

COPY MAILED

MAR 13 2008

OFFICE OF PETITIONS

In re Application of :
Walter J. KISH JR. :
Application No. 11/099,047 : DECISION ON PETITION
Filed: April 5, 2005 : TO WITHDRAW
Attorney Docket No. KLO1. PAU.32 : FROM RECORD
:

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).

The request was signed by Vic Lin on behalf of all attorneys of record.

All attorneys/agents of record have been withdrawn.

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

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

There is an outstanding Office action mailed January 15, 2008 that requires a reply by the applicant.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WALTER J. KISH, JR.
2804 CRYSTAL BEACH DRIVE,
LAS VEGAS, NV 89128

CURT OLLILA,
C/O THE OLLILA LAW GROUP LLC
2060 BROADWAY, SUITE 300
BOULDER, CO 80302

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/099,047	04/05/2005	Walter J. Kish JR.	KLO1.PAU.32

CONFIRMATION NO. 9059

POWER OF ATTORNEY NOTICE

Kenneth L. Sherman
Myers Dawes Andras & Sherman, LLP
Ste. 1150
19900 MacArthur Blvd.
Irvine, CA 92612

Date Mailed: 03/12/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/04/2008.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWARD J. GREENWALD P.C.
70 LINDEN OAKS, THIRD FLOOR
ROCHESTER, NY 14625

COPY MAILED

SEP 2 5 2008

OFFICE OF PETITIONS

In re Application of
Wang et al.
Application No. 11/099,055
Filed: April 5, 2005
Attorney Docket No. XW - 820

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

The request is **MOOT**.

A review of the file record indicates that the power of attorney to HOWARD J. GREENWALD P.C. has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the 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
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

MAILED

JUN 0 1 2010

OFFICE OF PETITIONS

John J. Cunniff
Hahn Loeser + Parks, LLP
Suite 300
One GOJO Plaza
Akron OH 44311-1076

In re Patent No. 7,587,244	:
Ralf Olbertz	: DECISION ON REQUEST FOR
Issue Date: September 8, 2009	: RECONSIDERATION OF
Application No. 11/099,064	: PATENT TERM ADJUSTMENT
Filed: April 5, 2005	: AND NOTICE OF INTENT
Attorney Docket No.	: TO ISSUE CERTIFICATE OF
117163.00131	: CORRECTION
Title: SPRING CONTACT ELEMENT	:

This is a decision on the petition filed on November 4, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-five (655) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-three (653) 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 April 6, 2008 and ends on October 27, 2008, the day before the RCE was filed, and is 204 days. See 35 U.S.C. 154(b)(1)(B)(i).

Patentees contend that a 2-day reduction for the submission of the reply to the non-final Office action on March 2, 2009 should not be assessed. Patentees maintain since the reply period ended on Saturday thus, the reply submitted on the next business day March 2, 2009 does not constitute a failure to engage in reasonable efforts.

The Office has considered applicant's argument but does not find it persuasive. The Office has concluded that the reduction of 2 days was properly entered based on 37 CFR 1.704(b). 37 CFR §1.704(b) provides:

> 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.

In this instance, a reduction of 2 days for the submission of reply on March 2, 2009 is warranted. The PTA was properly reduced by 2 days, the number of days in excess of three months that was taken to reply to the November 28, 2008 Office action. The fact that a reply could be filed on March 2, 2009 and be deemed timely to avoid abandonment or require the submission of extension of time fees does not mean a reduction is not warranted. The actual date of receipt of the correspondence in the Office is used for all other purposes. The Office notes that the date of filing of a paper will be used in calculating any periods of reduction of patent term adjustment. If patentees wanted to avoid a reduction patentees should have considered the use of the "Express Mail Post Office to Addressee " service of the United States Postal Service (37 CFR 1.10) or facsimile transmission (37 CFR 1.6(d)) for replies to be accorded the earliest possible filing date for patent term adjustment

calculations. Alternatively, patentees could have chosen to mail correspondence with sufficient time to ensure that the correspondence is received in the Office (and stamped with a date of receipt) before the expiration of the three-month period. See MPEP 2731.

As such, the patent term adjustment is 653, not 655 days.

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

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred fifty-three (653)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,587,244 B2

DATED : **September 8, 2009** **DRAFT**

INVENTOR(S) : Ralf 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 448 days

Delete the phrase "by 448 days" and insert – by 653 days--

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

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

Mail Date: 04/21/2010

Applicant	: Doron Shoham	: DECISION ON REQUEST FOR
Patent Number	: 7606250	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,094	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

ALSTON & BIRD
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE, NC 28280-4000

COPY MAILED

DEC 20 2005

OFFICE OF PETITIONS

In re Application of :
Yu-Wen Chang et al :
Application No. 11/099,113 : DECISION ON PETITION
Filed: April 5, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 043199/291023 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(d), filed November 7, 2005, which is being treated under 37 CFR 1.102(c)(2)(iii), to make the above-identified application special based on the invention materially contributing to countering terrorism as set forth in M.P.E.P. § 708.02, Section XI.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(iii) and MPEP § 708.02, Section XI: Inventions for Countering Terrorism, should state that special status is sought because the invention materially contributes to countering terrorism. International terrorism as defined in 18 U.S.C. § 2331 includes:

> activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping...

If the disclosure it not clear on its face that the clamed invention is materially directed to countering terrorism, the petition must be accompanied by a statement by the applicant, assignee or a registered attorney/agent explaining how the materiality standard is met. The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. No fee is required.

The instant petition meets all the requirements set forth above. Accordingly, the above-identified application has been accorded "special" status.

The $130.00 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

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

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

This matter is being referred to Technology Center AU 2613 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

FEB 23 2006

OFFICE OF PETITIONS

In re Application of
Marshall L. Stoller et al.
Application No. 11/099,120
Filed: April 4, 2005
Attorney Docket Number: 407T-303020US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed January 17, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts mailed May 3, 2005, which set a two (2) month shortened statutory period for reply A response was filed on December 7, 2005 with a five month extension of time request but because the oath or declaration submitted was not properly executed, a Notice of Incomplete Reply was mailed December 16, 2005 and thus, the application became abandoned. The instant petition and this decision on petition precede the mailing of a Notice of Abandonment.

The filing of the response to the Notice to File Missing Parts mailed January 17, 2006 is acknowledged. All other requirements having been met, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

NOV 10 2008

In re Application of	:	
Marshall L. Stoller, et al.	:	
Application No. 11/099,120	:	DECISION ON PETITION
Filed: April 4, 2005	:	TO WITHDRAW
Attorney Docket No. 407-303020US	:	FROM RECORD
	:	

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 17, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Quine Intellectual Property Law Group, PC has been revoked by the assignee of the patent application on July 28, 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: BEYER WEAVER, LLP
500 12TH STREET
SUITE 200
OAKLAND, CA 94607

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

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

Mail Date: 04/21/2010

Applicant	: Lisa Ann Estey	: DECISION ON REQUEST FOR
Patent Number	: 7659079	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,128	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **695** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-12-09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/099129 Patent No.: 7255930

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

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER 1794

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-18-09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/099129 Patent No.: 7255930

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

A Green

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

JENNIFER C. MCNEIL
SUPERVISORY PATENT EXAMINER

_____ 1794
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08-18-09

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/099129 Patent No.: 7255930

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

Angela Green
Certificates of Correction Branch
703-756-1541

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: _____

KEITH D. HENDRICKS
SUPERVISORY PATENT EXAMINER 1794

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUL 22 2008

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

In re Application of :
Darius J. Preisler, et al. :
Application No. 11/099,131 : ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. VEI 0359 PUS 1 :

This is a decision in response to the petition, filed January 24, 2008, to revive the above-identified application under the provisions of 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 is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

It is noted that an amendment was included with the petition filed on January 24, 2008. However, the amendment is considered non-responsive, since it did not place the application in condition for allowance. See the attached Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).

---

[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

The centralized facsimile number is **(571) 273-8300**.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/099,131	**Applicant(s)** PREISLER ET AL.	
	Examiner SARANG AFZALI	**Art Unit** 3726	

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

THE REPLY FILED 24 January 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *15-17 and 19-23*.
   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: _____.

/David P. Bryant/
SPE
Art Unit 3726

Continuation of 3. NOTE: The amendment to claim 15 by deleting the limitation of "at least one of the upper or lower skins is partially crushed proximate to the general areas" and changing the alternative language of "wherein the core is crushed or partially deformed at the general areas" into "wherein the core is crushed to partially deform at the general areas", amendment to claim 21 by adding new limitation of "so as to partially deform the cellular core", and adding new independent claims 24 and 32 and their dependent claims 25-31 and 33-36, raise new issues that would require further consideration and/or search .

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

COPY MAILED
DEC 17 2008

In re Application of :
Darius J. Preisler, et al. :
Application No. 11/099,131 : ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. VEI 0359 PUS 1 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed September 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed June 21, 2007. A Notice of Abandonment was mailed on January 7, 2008. On January 24, 2008 a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 22, 2008. In response, on September 22, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, (2) the petition fee of $1,540, and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3726 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

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

COPY MAILED

JAN 14 2008

OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

In re Application of :
Ross Alan Tessien :
Application No. 11/099,140 : DECISION ON PETITION
Filed: April 5, 2005 : TO WITHDRAW
Attorney Docket No. IMP024C8 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed March 20, 2007.

The request is **APPROVED**.

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

The request was signed by David G. Beck on behalf of himself.

All attorneys/agents associated with this application have been withdrawn.

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

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

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ROSS ALAN TESSIEN
12731 A LOMA RICA DRIVE
GRASS VALLEY, CA 95945

cc: ROSS TESSIEN
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVENUE
UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/099,140	04/05/2005	Ross Alan Tessien	IMP024C8

CONFIRMATION NO. 8513

POWER OF ATTORNEY NOTICE

45147
PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY, CA 94942

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2007.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

COPY MAILED

FEB 28 2008

OFFICE OF PETITIONS

In re Application of

TESSIEN, Ross A.
Application No. 11/099,145
Filed: April 5, 2005
Attorney Docket No. **IMP024C4**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 20, 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 reason set forth in the request, "client/assignee Impulse Devices, Inc. has knowingly and freely assent to termination, does not meet any of the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVENUE, UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATENT LAW OFFICE OF DAVID G. BECK
P.O. BOX 1146
MILL VALLEY, CA 94942

COPY MAILED

MAY 07 2008

OFFICE OF PETITIONS

In re Application of :
SATTERWHITE, Richard D. :
Application No. 11/099,145 : DECISION ON PETITION
Filed: April 5, 2005 : TO WITHDRAW
Attorney Docket No. **12259-1** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 7, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **PATENT LAW OFFICE OF DAVID G. BECK** has been revoked by the assignee of the patent application on March 20, 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: **MAYNARD COOPER & GALE, PC**
1901 SIXTH AVENUE NORTH, HARBERT PLAZA
BIRMINGHAM, AL 35203-2618

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

Lesavich High-Tech Law Group, P.C.
Suite 325
39 S. LaSalle Street
Chicago, IL 60603

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Ray Wang :
Application No.: 11/099,157 : DECISION ACCORDING
Filed: April 5, 2005 : RULE 47(b) STATUS
Attorney Docket No: 00,583-C :
For: METHOD AND SYSTEM FOR LOCATION-AWARE WIRELESS MOBILE DEVICES INCLUDING MOBILE USER NETWORK MESSAGE INTERFACES AND PROTOCOL

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

The petition is **GRANTED**.

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

The above-cited application was filed on April 5, 2005, without a properly executed declaration. On May 9, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a declaration signed by all named inventors and a surcharge of $65.00 for the late filing of the declaration, and additional claim fees. On September 8, 2005, the instant petition was filed along with a request for an extension of time within the second month.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAURA N TUNNELL
PO BOX 6003
SANTA BARBARA CA 93160

COPY MAILED

SEP 28 2007

OFFICE OF PETITIONS

In re Application of :
Paula A. Renard :
Application No. 11/099,174 : ON PETITION
Filed: April 4, 2005 :
Attorney Docket No. 02REN2CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed August 17, 2007, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the Notice of Non-Compliant Amendment mailed November 27, 2006. This Office action set an extendable period for reply of one month. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on December 28, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

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

The matter is being forwarded to Group Art Unit 2873 for consideration of the Amendment filed August 17, 2007.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JAN 29 2007

OFFICE OF PETITIONS

In re Application of :
TEPLYASHIN, Alexander S. :
Application No. 11/099,176 : DECISION ON PETITION
Filed: April 4, 2005 : TO WITHDRAW
Attorney Docket No. : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 3, 2006.

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

A review of the file record indicates that the power of attorney to Peng Chen of MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on February 13, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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

ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

COPY MAILED

APR 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Alexander I Kalina :
Application No. 11/099,211 : DECISION ON PETITION
Filed: April 5, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 02019/10CIP : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 8, 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 **DISMISSED**.

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

The instant petition does not include a statement signed by the applicant.

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 3748 for action in its regular turn.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE TX 77402-0429

COPY MAILED

JUN 29 2007

OFFICE OF PETITIONS

In re Application of :
Alexander I. Kalina :
Application No. 11/099,211 : DECISION ON PETITION
Filed: April 5, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 02019/10CIP : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 24, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a copy of applicant's drivers license. 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 3748 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

COPY MAILED

DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Ralf Schroder Genannt Berghegger :
Application No. 11/099,228 :
Filed: April 5, 2005 :
Attorney Docket No. 041165-9085-00 :

DECISION GRANTING PETITION

This is a decision on the petition filed September 16, 2005 requesting that the above-identified application be accorded a filing date of April 5, 2005, instead of the presently accorded date of April 4, 2005. The petition is being treated under 37 CFR 1.10(d).

Petitioner maintains that the application was deposited in Express Mail service with the U. S. Postal Service, on April 5, 2005. However, the USPS incorrectly entered the "date-in" as April 4, 2005. Pursuant to 37 CFR 1.10(d), applicant petitions the Commissioner to accord a filing date for the above-identified application as of the actual date of deposit with the USPS. In support, petitioners provided, inter alia, a copy of the Express Mail label, receipt No. EV 635801895 US and a copy of the USPS Track/Confirm record for the package in question. It is noted that the transmittal letter found in the file includes the same Express Mail receipt number.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day

of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Preliminarily, it is concluded that the petition was filed promptly within the meaning of §1.10(d)(1). The evidence of record further shows that the number of the "Express Mail" mailing label, EV 635801895 US, is on the correspondence of record presently accorded a filing date of April 4, 2005, and thus, was placed on the correspondence prior to the original mailing.

Finally, the USPS Track and Confirm record corroborates a "date-in" of April 5, 2005, as it shows that the "Express Mail" package bearing mailing label No. EV 635801895 US was accepted at the USPS located in Milwaukee, WI 53203 on April 5, 2005.

The petition is GRANTED.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **April 5, 2005** and for issuance of a Corrected Filing Receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 03, 2008

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/099228 Patent No.: 7295450 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
[redacted]

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

Formatted: Indent: Left: 1.22"
Formatted: Bullets and Numbering

Comments: Since the line numbers of the patent do not perfectly synchronize with the actual lines of the patent, it is unclear which word "output" is to be replaced. Applicant agreed to submit a second certificate of correction using the actual line numbers of the patent and specifying that "unit output values" should instead be -unit adopt values-.

/Akm Ullah/ 4/22/08

AKM ULLAH
SUPERVISORY PATENT EXAMINER

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

S.N.# 11/099,228

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

2838

AKM ULLAH
SUPERVISORY PATENT EXAMINER

4/22/'08

SPE Art Unit 2838

PAGE 2/2 * RCVD AT 4/22/2008 8:19:07 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/45 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-26

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

AARON R. CLEMENTS/HURLEY, REYES & GUINN
1805-13TH ST.
LUBBOCK, TX 79401

COPY MAILED

AUG 10 2007

OFFICE OF PETITIONS

In re Application of
Dan Briggs
Application No. 11/099,230
Filed: April 2, 2005
Attorney Docket No. GA2005A

ON PETITION

This is a decision on the petition, filed February 5, 2007, to revive the above-identified application under the provisions of 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 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 Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 17, 2005. The Notice set a period for reply of two (2) months and required filing fees and surcharge of $745 and an executed oath or declaration under 37 CFR 1.63. A Notice of Abandonment was mailed on January 30, 2006.

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

Receipt is acknowledged of the $745 fees paid. However, an oath or declaration for the patent application in compliance with 37 CFR 1.63 has not been presented. The declaration presented does not identify (1) each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial; (2) the country of citizenship of each inventor; and (3) the mailing address, and the residence address if an

inventor lives at a location which is different from where he customarily receives mail, of each inventor;

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

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
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) 272-3204.

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

AARON R. CLEMENTS/HURLEY, REYES & GUINN
1805-13TH ST.
LUBBOCK, TX 79401

COPY MAILED

OCT 16 2007

OFFICE OF PETITIONS

In re Application of :
Dan Briggs :
Application No. 11/099,230 : ON PETITION
Filed: April 2, 2005 :
Attorney Docket No. GA2005A :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 9, 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 May 17, 2005. A Notice of Abandonment was mailed January 30, 2006. On February 5, 2007, a petition to revive was filed; however, the petition was dismissed in a decision mailed August 10, 2007. In response, on October 9, 2007 the present petition was filed. Petitioner requests that the original decision be reconsidered, since a proper declaration under 37 CFR 1.63 was submitted.

A further review of the declaration filed February 5, 2007, confirms that the declaration complies with the requirements of 37 CFR 1.63.

Accordingly, the petition complies with the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the statutory basic filing fee of $150, the search fee of $250, the examination fee of $100, additional claim fees of $180, an executed oath or declaration under 37 CFR 1.63 and the $65 surcharge; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed February 5 2007.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

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

LEONARD MCCOY
1860 NORTHBROOK DR.
ANN ARBOR, MI 48103

COPY MAILED

JUL 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
McCoy, Leonard	:	
Application No. 11/099,240	:	ON PETITION
Filed: April 6, 2005	:	
Title: CONDOM COVER ALL	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed May 15, 2006, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required.

The instant petition includes a statement from Mr. McCoy's doctor, Arthur W. Tai, M.D. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3743 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Stefano Previdi	: DECISION ON REQUEST FOR
Patent Number	: 7646739	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,245	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1031** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

General Motors Corporation
Legal Staff - Mail Code 482-C23-B21
300 Renaissance Center
PO Box 300
Detroit MI 48265-3000

COPY MAILED

AUG 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Victor W. Logan, Bruce J. Clingerman, James :
W. Dandalides, and Scott B. Gonser :
Application No. 11/099,261 : DECISION ON PETITION
Filed: April 5, 2005 : UNDER 37 C.F.R. §1.47(a)
Attorney Docket Number: GP-302739 :
Title: ELECTRICAL CURRENT :
MEASUREMENT IN A FUEL CELL :

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed April 5, 2005 along with the present application.

The above-identified application was filed on April 5, 2005, identifying Victor W. Logan, Bruce J. Clingerman, James W. Dandalides, and Scott B. Gonser as joint inventors. The declaration which was submitted on filing was executed by each of the joint inventors save Mr. Gonser.

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

Petitioner has submitted the petition fee[2], as well as a statement of facts executed by James L. Saller.

Petitioner has met requirements (1), (3), and (5) above. Requirement (2) does not apply.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor "cannot be found or reached[3]," petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.*

The entry dated March 2, 2004 sets forth that Mr. Saller was unable to find the address of the non-signing inventor, but it does not appear that he performed a search for this address. Clearly, one will not be able to find something unless one performs a search for the same. Petitioner has further set forth that Mr. Saller asked a few of the non-signing inventors former supervisors and associates, but this does not constitute a diligent search.

The only mention of a search which was performed is the entry dated March 4, 2004, which sets forth "A People Search for 'Scott Grosner' was conducted by Matthew Szalach of Harness, Dickey, and Pierce, P.L.C. resulting in two names of 'Scott Grosner."

The statement of facts has been executed by James Saller, and since he does not have firsthand knowledge of the events surrounding these efforts, a sufficient showing of diligence has not been set forth. The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein – i.e., if Mr. Szalach is the person who performed the search for the non-signing inventor, Petitioner should submit a statement of facts, signed by him, on renewed petition. Statements based on hearsay will not normally be accepted. If details of the efforts to locate the non-signing inventor are set forth in an affidavit or declaration of facts, the person doing so should be a person with first hand knowledge of the details.

Even if the statement of facts had been signed by one having firsthand knowledge of the facts set forth therein, the statement would not establish that a diligent search had been performed. What precisely is "People Search?" What was the scope of this search? Was it limited only to Big Beaver City? What are the two entries that Mr. Szalach found after completing his search? Did anyone ever follow up on these two leads? If not, why? If the search resulted in two entries for the non-signing inventor, it appears as though the non-signing inventor has been found – why does Petitioner assert that he cannot be found, when he has two potential addresses for him?

Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[4]. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone,

---

2 Petitioner has submitted $130. The remaining $70 has been charged to the Deposit Account, as authorized in the petition.
3 Petition, page 1, paragraph 1.
4 See MPEP 409.03(d).

or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached.

As such, 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 "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

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

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

5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

7 (703) 872-9306 - please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to 571-273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

General Motors Corporation
Legal Staff - Mail Code 482-C23-B21
300 Renaissance Center
PO Box 300
Detroit MI 48265-3000

COPY MAILED
OCT 19 2005
OFFICE OF PETITIONS

In re Application of
Victor W. Logan, Bruce J. Clingerman, James W. Dandalides, and Scott B. Gonser
Application No. 11/099,261
Filed: April 5, 2005
Attorney Docket Number: GP-302739
Title: ELECTRICAL CURRENT MEASUREMENT IN A FUEL CELL

RENEWED DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed October 3, 2005.

The above-identified application was filed on April 5, 2005, identifying Victor W. Logan, Bruce J. Clingerman, James W. Dandalides, and Scott B. Gonser as joint inventors. The declaration which was submitted on filing was executed by each of the joint inventors save Mr. Gonser.

The original petition was submitted on filing, and was dismissed via the mailing of a decision on August 3, 2005, for failure to establish that a diligent search was performed for Mr. Gonser.

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

With this renewed petition, it has been established that a diligent effort has been made to locate the non-signing joint inventor.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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
11/099,262	04/05/2005	2661	1200	13768.73.1	19	10	4

CONFIRMATION NO. 8391

CORRECTED FILING RECEIPT

OC000000017599387

47973
WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

Date Mailed: 12/07/2005

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)

Richard C. Machin, Bellevue, WA;
Jameel Hyder, Redmond, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/094,539 06/12/1998

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/099,262

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method, system, and computer program product for representing and connection-oriented device in a known format

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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

YOUNG LAW FIRM, P.C.
4370 ALPINE RD.
STE. 106
PORTOLA VALLEY, CA 94028

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Kiran Goyal et al : DECISION GRANTING
Application No. 11/099,272 : PETITION
Filed: April 4, 2005 :
Attorney Docket No. ORCL5941 :

This is a decision on the petition under 37 CFR 1.10, filed May 5, 2005, requesting that the above-identified application be accorded a filing date of April 4, 2005, rather than the presently accorded filing date of April 5, 2005.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on April 4, 2005, pursuant to the requirements of 37 CFR 1.10. In support, applicants provided a copy of the Express Mail label, receipt no. EO908488805US, showing a Date-In of April 4, 2005, which also includes a USPS date stamp receipt of April 4, 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 April 4, 2005. Accordingly, the instant application is entitled to a filing date of April 4, 2005, and has been so accorded.

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

This matter is being referred to Technology Center AU 2188 for Examination in due course.

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

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
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
11/099,274	04/04/2005	1743	1615	IL-11357	5	62	3

CONFIRMATION NO. 7758

UPDATED FILING RECEIPT

OC000000016430058

Michael C. Staggs
Attorney for Applicants
Lawrence Livermore National Laboratory
P.O. Box 808, L-703
Livermore, CA 94551

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)

J. Chance Carter, Livermore, CA;
Billy W. Colston JR., San Ramon, CA;
Steve B. Brown, Livermore, CA;
Thomas S. Wilson, San Leandro, CA;
Ujwal S. Setlur, Livermore, CA;
Christine N. Paulson, Fremont, CA;
Jane P. Bearinger, Livermore, CA;

Assignment For Published Patent Application

The Regents of the University of California

Power of Attorney:

Eddie Scott–25220
Alan Thompson–29981
James Tak–46367
Michael Staggs–50938
John Lee–53193

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/559,834 04/05/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/30/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/099,274

Projected Publication Date: 10/06/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method for creating chemical sensors using contact-based microdispensing technology

Preliminary Class

436

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO CA 94303

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Jeffery Mark Arnold et al :
Application No. 11/099,280 : ON PETITION
Filed: 4 April 2005 :
Attorney Docket No. PA3049US :

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

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before May 22, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 22, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1400.00 and the Publication fee of $300.00, (2) the petition fee of $1500.00; and (3) a statement of unintentional delay. Accordingly, the Issue Fee and Publication payments are 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.

Telephone inquiries concerning this decision should be directed to Charles Smoot at (571) 272-3299, or in his absence the undersigned at (571) 272-7099.

The application file is being referred to the Publishing Division to be processed into a patent.

David Bucci
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
DIW Aug-05

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

COPY MAILED

AUG 16 2005

OFFICE OF PETITIONS

In re Application of	:	
Hildebrand et al.	:	
Application No. 11/099,283	:	DECISION ON PETITION
Filed: 4 April, 2005	:	
Atty Docket No. 6680.065	:	

This is a decision in reference to the petition styled under 37 CFR 1.57, filed on 19 July, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 4 April, 2005, with Figure 12 as a part of the original disclosure. This is also a decision on the "Notification of Error in Payment of Fee(s) as a Large Entity" which is treated as a request under 37 CFR 1.28(a) to establish small entity status, filed concurrently.

On 4 April, 2005, the application was filed.

On 19 May, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 4 April, 2005, but that Figure 12 described in the specification appeared to have been omitted from the application.

In response, on 19 July, 2005, the present petition was filed, accompanied by a copy of Figure 12. Petitioners assert that Figure 12 was contained in prior-filed Application No. 10/022,066, which was incorporated by reference in the instant application.

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant

asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(f)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, however, petitioners neither assert that the missing drawing Figure was deposited on 4 April, 2005, nor request the 19 July, 2005 (the date the drawing was supplied), filing date.

In this regard it is noted that the transmittal letter filed with the original application papers states that the present application is a continuation of Application No. 10/022,066, and that "the prior application is incorporated herein by reference in its entirety." Additionally, the first page of the specification states that this application is a continuation of Application No. 10/022,066… "the contents of all of which are hereby expressly incorporated in their entirety by reference."

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figure 12 is not new matter if it were a part of the disclosure of the prior application.

It is noted that petitioners have filed Figure 12 as a preliminary amendment. The examiner will review the preliminary amendment in due course for new matter.

The application will be processed using only the application papers present on filing. The copy of Figure 12 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, a petition fee of $400.00 is due. It is noted that applicant submitted $130.00 with the present petition. Applicant is expected to remit the balance due of $270.00 upon receipt of this decision.

In regards to the request under 37 CFR 1.28(a), small entity status will apply. No refund of the fees paid on 4 April, 2005, can be granted, however. because the request under 37 CFR 1.28(a) was made on 19 July, 2005, which is more than three (3) months after 4 April, 2005, the date the fees were paid in the full amount due.[2] However, $250.00 of the application size fee paid on 19 July, 2005, will be refunded by Treasury Check.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 4 April, 2005, using only the application papers filed on that date.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] See 37 CFR 1.28(a).

DUNLAP, CODDING & ROGERS, P.C.
ATTORNEYS AT LAW
1601 N.W. Expressway, Suite 1000
Oklahoma City, Oklahoma 73118

Telephone
(405) 607-8600

Telefax
(405) 607-8686

RECEIVED
CENTRAL FAX CENTER
AUG 24 2005

FACSIMILE MESSAGE

TO FACSIMILE NO.: **(571) 273-8300**

ATTENTION: **Commissioner for Patents**

FROM: **Douglas J. Sorocco**

SUBJECT: **Applicant: Hildebrand et al.** **Attny: Dkt. No.: 6680.065**
Serial No.: 11/099,283 **Patent No.: Not Yet Assigned**
Filed: 04/04/2005 **Issue Date: Unknown**
Title: METHOD AND APPARATUS FOR THE PRODUCTION OF SOLUBLE MHC ANTIGENS AND USES THEREOF

DATE: **August 24, 2005**

RECEIVED
OIPE/IAP
AUG 25 2005

PAGES: **5** **plus this transmittal page.**

Call (405) 607-8600 if you should have any questions regarding this transmittal.
****

Attached documents include:

1) Transmittal (1 page);
2) Petition Fee Transmittal (1 page);
3) Credit Card Form (1 page) Authorizing the Commissioner to charge indicated fees of $270.00 (for additional petition fees) or any additional fee required and/or credit any overpayments to the credit card listed on the attached form;
4) Copy of Decision on Petition (3 pages).

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8)

I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office on the date shown below. The transmission is directed to facsimile no. (703) 306-5995, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Douglas J. Sorocco, Reg. No. 43,145
Name of applicant, assignee or registered representative

08/24/2005
Date

IMPORTANT: This message is intended for the recipient indicated above. It may contain information which is confidential or protected from disclosure by the attorney-client privilege or work-product doctrine. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are advised that any dissemination, distribution or copying of the communication is strictly prohibited. If you have received this message in error, please mail to DUNLAP, CODDING & ROGERS, P.C., 1601 N.W. Expressway, Suite 1000, Oklahoma City, Oklahoma 73118. We will reimburse you for your postage. Thank you.

RECEIVED
CENTRAL FAX CENTER
AUG 2 4 2005

PTO/SB/17p (11-04)
Approved for use through 07/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL
(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	11/099,283
Filing Date	04/04/2005
First Named Inventor	William H. Hildebrand et al.
Art Unit	Unknown
Examiner Name	Unknown
Attorney Docket Number	6680.065

Enclosed is a petition filed under 37 CFR 1.57(a) **that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of $** 270.00 **is enclosed.**

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. *For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.*

Payment of Fees (small entity amounts are NOT available for the petition fees)

☐ The Commissioner is hereby authorized to charge the following fees to Deposit Account No._____:
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments
Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of $_____ is enclosed.

☒ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee $400 Fee Code 1462
For petitions filed under:
§ 1.53(e) - to accord a filing date.
§ 1.57(a) - to accord a filing date.
§ 1.182 - for decision on a question not specifically provided for.
§ 1.183 - to suspend the rules.
§ 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
§ 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee $200 Fee Code 1463
For petitions filed under:
§ 1.12 - for access to an assignment record.
§ 1.14 - for access to an application.
§ 1.47 - for filing by other than all the inventors or a person not the inventor.
§ 1.59 - for expungement of information.
§ 1.103(a) - to suspend action in an application.
§ 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
§ 1.295 - for review of refusal to publish a statutory invention registration.
§ 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
§ 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
§ 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
§ 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
§ 5.12 - for expedited handling of a foreign filing license.
§ 5.15 - for changing the scope of a license.
§ 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee $130 Fee Code 1464
For petitions filed under:
§ 1.19(g) - to request documents in a form other than that provided in this part.
§ 1.84 - for accepting color drawings or photographs.
§ 1.91 - for entry of a model or exhibit.
§ 1.102(d) - to make an application special.
§ 1.138(c) - to expressly abandon an application to avoid publication.
§ 1.313 - to withdraw an application from issue.
§ 1.314 - to defer issuance of a patent.

_____ 08/24/2005
Signature Date

Douglas J. Sorocco 43,145
Typed or printed name Registration No., if applicable

This collection of information is required by 37 CFR 1.17. 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 5 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.

RECEIVED
CENTRAL FAX CENTER
AUG 24 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

DOCKETED
mh

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

DUNLAP, CODDING & ROGERS P.C.
PO BOX 16370
OKLAHOMA CITY OK 73113

Missing Parts 8/26/05
Fees

COPY MAILED
AUG 16 2005
OFFICE OF PETITIONS

In re Application of :
Hildebrand et al. :
Application No. 11/099,283 : DECISION ON PETITION
Filed: 4 April, 2005 :
Atty Docket No. 6680.065 :

This is a decision in reference to the petition styled under 37 CFR 1.57, filed on 19 July, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application be accorded a filing date of 4 April, 2005, with Figure 12 as a part of the original disclosure. This is also a decision on the "Notification of Error in Payment of Fee(s) as a Large Entity" which is treated as a request under 37 CFR 1.28(a) to establish small entity status, filed concurrently.

On 4 April, 2005, the application was filed.

On 19 May, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 4 April, 2005, but that Figure 12 described in the specification appeared to have been omitted from the application.

In response, on 19 July, 2005, the present petition was filed, accompanied by a copy of Figure 12. Petitioners assert that Figure 12 was contained in prior-filed Application No. 10/022,066, which was incorporated by reference in the instant application.

DUNLAP, CODDING & ROGERS, P.C.
AUG 23 2005

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant

08/25/2005 JBALINAN 00000072 11099283
01 FC:1462 400.00 OP

PAGE 4/6 * RCVD AT 8/24/2005 3:15:54 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/39 * DNIS:2738300 * CSID: * DURATION (mm-ss):02-58

Adjustment date: 08/25/2005 JBALINAN
07/21/2005 BABRAHA1 00000009 11099283
01 FC:1464 -130.00 OP

asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(f)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, however, petitioners neither assert that the missing drawing Figure was deposited on 4 April, 2005, nor request the 19 July, 2005 (the date the drawing was supplied), filing date.

In this regard it is noted that the transmittal letter filed with the original application papers states that the present application is a continuation of Application No. 10/022,066, and that "the prior application is incorporated herein by reference in its entirety." Additionally, the first page of the specification states that this application is a continuation of Application No. 10/022,066... "the contents of all of which are hereby expressly incorporated in their entirety by reference."

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Figure 12 is not new matter if it were a part of the disclosure of the prior application.

It is noted that petitioners have filed Figure 12 as a preliminary amendment. The examiner will review the preliminary amendment in due course for new matter.

The application will be processed using only the application papers present on filing. The copy of Figure 12 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, a petition fee of $400.00 is due. It is noted that applicant submitted $130.00 with the present petition. Applicant is expected to remit the balance due of $270.00 upon receipt of this decision.

In regards to the request under 37 CFR 1.28(a), small entity status will apply. No refund of the fees paid on 4 April, 2005, can be granted, however. because the request under 37 CFR 1.28(a) was made on 19 July, 2005, which is more than three (3) months after 4 April, 2005, the date the fees were paid in the full amount due.[2] However, $250.00 of the application size fee paid on 19 July, 2005, will be refunded by Treasury Check.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 4 April, 2005, using only the application papers filed on that date.

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

[2] See 37 CFR 1.28(a).

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

FRANCISCO BORDIER LEAL
#317 OLIVIA CIR
EL PASO, TX 79912

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Leal Francisco Bordier :
Application No.: 11/099,290 :
Filed: NO FILING DATE ACCORDED :
Attorney Docket No.: :

ON PETITION

This is a decision on the petition filed August 23, 2005, which will be treated as a petition under 37 CFR 1.53 to accord the above-cited application a filing date.

The petition is **dismissed.**

The application was deposited on April 4, 2005. On, June 17, 2005, the Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had not been accorded a filing date because no specification, claims, or drawings were found with application papers.

In response, the present petition was filed. Petitioner therein argues that a specification, claims, and drawing were filed on April 4, 2005.

The argument has been considered, but is not persuasive. The Patent and Trademark Office (the "Office") file is the official record of the papers originally filed in this application. A review of the application file did not reveal a specification, claims, or drawings filed on April 4, 2005. Petitioner must provide *prima facie* evidence that these items were received on April 4, 2005. Such evidence would include an itemized Office date-stamped postcard receipt whereby the Office acknowledges receiving the drawings. See MPEP § 503. No such postcard was found with the petition papers, therefore; petitioner has not overcome the presumption that the application file, as maintained by the Office, is accurate. The petition is dismissed, accordingly.

It is noted that on August 23, 2005, petitioner filed what is alleged to be a copy of the specification, claims, and drawings. Without providing *prima facie* evidence that items were received on April 4, 2005, the Office of Initial Patent Examination will likely accord the application a filing date as of the date the specification, claims, and drawings are recognized as being received. As a filing date has not been accorded a filing date yet, petitioner should wait for the Office of Initial Patent Examination to accord the application a filing date before proceeding. If petitioner believes that the filing date ultimately accorded is incorrect, petitioner may file a petition under 37 CFR 1.182 requesting a change in the filing date.

In the interim, the application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 0 1 2006

OFFICE OF PETITIONS

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

In re Application of :
Hortz et al. :
Application No. 11/099,299 : DECISION ON PETITION
Filed: April 5, 2005 : TO WITHDRAW
Attorney Docket No. 17676 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

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

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

There is an outstanding Office action mailed June 9, 2006 that requires a reply from the applicant.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

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

MAILED
FROM DIRECTORS OFFICE
NOV 17 2005
TECHNOLOGY CENTER 3600

YEN-JEN YOU
7671 MALAHAT AVENUE
RICHMOND, BC
V7A 4H1
CANADA

In re application of : **DECISION ON PETITION**
Yen-Jen You : **TO MAKE SPECIAL**
Application No. 11/099,307 : **(APPLICANT'S AGE)**
Filed: April 06, 2005 :
For: HANDLEBAR SHOCK ABSORBING SYSTEM FOR BICYCLES

This is a decision on the petition submitted on November 08, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

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

The evidence submitted with the petition is a driver's license indicating Mr. You is at least 65 years of age.

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

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

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

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

KJD/slb: 11/16//05

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

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

Mail Date: 04/20/2010

Applicant	: Jonathan D. Bennett	: DECISION ON REQUEST FOR
Patent Number	: 7640538	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **966** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

NOV 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Sarita M. James et al	:	
Application No. 11/099,320	:	DECISION GRANTING PETITION
Filed: April 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13768.1699	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 October 6, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2194 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

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

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

CARR & FERRELL, LLP
2200 GENG ROAD
PALO ALTO, CA 94303

COPY MAILED

JUN 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Xiao Kang FENG, et al	:	
Application No. 11/099,356	:	DECISION ON PETITION
Filed: April 4, 2005	:	TO WITHDRAW
Attorney Docket No. PA2980US	:	FROM RECORD
	:	

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, 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 Stefanie Zilka on behalf of all attorneys/agents of record associated with Customer No. 22830.

All attorneys/agents of record associated with Customer No. 22830 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 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: XIAO KANG FENG
355 FIRST STREET,
SOUTH TOWER S601
SAN FRANCISCO, CA 94105

SKY WOO
430 31ST AVENUE
SAN FRANCISCO, CA 94121

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Richard Haney :
Application No. 11/099,362 : DECISION ON
Filed: April 4, 2005 : PETITION
Atty Docket No. 2340.001US1 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a) filed November 29, 2007.

The above-identified application became abandoned for failure to pay the Issue Fee (and Publication Fee) within three months of the mailing date, June 6, 2007, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply having been received, the above-identified application became abandoned on September 7, 2007. A courtesy Notice of Abandonment was mailed on October 23, 2007.

In response, applicants filed the instant petition, asserting that the Office action was never received and requesting that the holding of abandonment be withdrawn. The petition includes a statement by the practitioner attesting to the non-receipt of the Office action. The practitioner further states that a search of the file jacket and the docket records did not locate the Notice of Allowance dated June 6, 2007. Attached to the statement is a copy of the docket record and file history from March 1, 2007 - October 30, 2007. A response to the Office action has been received[1].

[1] On telephone call of February 12, 2008, it was clarified to the undersigned by attorney Peacock, consistent with their allegation of non-receipt, that the issue fee transmittal was printed from Pair.

A review of the application file does not reveal a clear irregularity in the mailing of the Office action mailed June 6, 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 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 October 23, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

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

No fee is required on petition under § 1.181.

The Office of Patent Publication has been advised of this decision. The application is, thereby, forwarded to the Publishing Division for processing into a patent.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Peter A. Borsari
3 South Fieldway
Rehoboth Beach, DE 19971

COPY MAILED

DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of :
JENKINS, et al. :
Application No. 11/099,367 : DECISION ON PETITION
Filed: April 05, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 315.2909 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 16, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The evidence submitted with the instant petition is a copy of Mr. Jenkins Mississippi Driver License indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

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

The application is being forwarded to the Technology Center Art Unit 3635 for action on the merits commensurate with this decision.

Patricia Volpe
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

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

In re Application of
Matthew P. CASEBOLT, et al
Application No. 11/099,396
Filed: April 4, 2005
Attorney Docket No. 443452002100

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 30, 2007.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

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

There are no outstanding Office actions pending at the present time.

Diane Goodwyn
Petitions Examiner
Office of Petitions

Cc: MATTHEW P. CASEBOLT
4565 LOGAN COURT,
FREMONT, CA 94536

cc: BILL GALLIANI
COOLEY GODWARD KRONISH LLP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/099,396	04/04/2005	Matthew P. Casebolt	443452002100

CONFIRMATION NO. 8804

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

POWER OF ATTORNEY NOTICE

OC000000027682057

Date Mailed: 01/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/30/2007.

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

/dcgoodwyn/

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

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

Guojun Shi
49016 Manhattan Circle
Canton MI 48188

In re Application of	:	
YANG, CHING-MIN et al.	:	JUN 30 2009
Application No.: 11/099,401	:	DECISION ON
Filing or 371(c) Date: 04/06/05	:	PETITION
Attorney Docket Number:	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed June 17, 2009.

This petition is **DISMISSED**.

Any further petition for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under [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 Notice of Allowability, mailed December 30, 2008. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on June 8, 2009.

The Notice of Allowability

A review of the Notice of Allowability reveals that the Notice clearly required drawings. The Notice states: "CORRECTED DRAWINGS must be submitted."

The statute, 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.

This section of the statute is further clarified in Office rule, 37 CFR § 1.135, Abandonment for failure to reply within time period, which states

> (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.

This section explains that the reply must be both complete and proper as the condition of the application may require.

Here, Applicant filed a reply on February 5, 2009, to with – the issue fee; however, corrected drawings were also required. Applicant failed to timely file corrected drawings. The application was properly abandoned.

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 (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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

GUOJUN SHI
49016 MANHATTAN CIRCLE
CANTON, MI 48188

COPY MAILED

DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of :
Ching-Min Yang, et al. :
Application No. 11/099,401 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. :

This is in response to the communication, filed August 27, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

On December 30, 2008, the Office mailed a Notice of Allowance and Issue Fee(s) Due and a Notice of Allowability, which set a three month shortened statutory period to reply. The application became abandoned on March 31, 2009, for failure to submit a timely file corrected drawings as required by the December 30, 2008 Notice of Allowability. On June 8, 2009, the Office mailed a Notice of Abandonment.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that petitioner submitted a reply to the Notice of Allowability mailed December 30, 2008. However, the reply was received February 5, 2009 was not a complete response to the Office action. Applicant had until March 30, 2009 to file a complete reply to the Notice of Allowability.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

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.

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).

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 April M. Wise at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement;

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

JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE KY 40202

COPY MAILED
DEC 19 2006
OFFICE OF PETITIONS

In re Application of
Birdwell et al,
Application No. 11/099,407
Filed: April 5, 2005
Attorney Docket Number: ZM466-04022
Title of Invention: LED Illuminated Door Chime Push Button with Adjustable Task Light

ON PETITION

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

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed August 15, 2006. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on November 16, 2006. A Notice of Abandonment was mailed on November 30, 2006.

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

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries 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

Paper No.

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

COPY MAILED

OCT 24 2008

OFFICE OF PETITIONS

In re Application of :
Timothy McKinsey : DECISION ON PETITION
Application No. 11/099,417 :
Filed: April 5, 2005 :
Atty Docket No. MYOG:054US/ :
10503135 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed August 6, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed January 22, 2008. The restriction requirement set a one month period for reply, with extensions of time obtainable under 37 CFR 1.136(a). No timely reply or extension of time filed, the application became abandoned effective February 23, 2008. A courtesy Notice of Abandonment was mailed on July 31, 2008.

The petition includes the required reply in the form of an election and payment of the petition fee. In addition, the petition includes the required statement of unintentional delay. No terminal disclaimer is required.

Technology Center AU 1611 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed August 6, 2008.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

COPY MAILED

JUN 16 2008

In re Application of :
DIECKGRAEFE, Brian et al. :
Application No. 11/099,461 : DECISION ON PETITION
Filed: April 06, 2005 : TO WITHDRAW
Attorney Docket No. **004255.00028** : FROM RECORD
:

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 20, 2007.

The request is **APPROVED**.

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

The request was signed by Sarah Kagan on behalf of all attorneys of record who are associated with customer No. 22907. All attorneys/agents associated with the Customer Number 22907 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 Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **MR. SAUL L. ZACKSON**
SONNENSCHEIN NATH & ROSENTHAL LLP
ONE METROPOLITAN SQUARE
SUITE 3000
ST. LOUIS MO 63102

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

COPY MAILED
DEC 22 2006
OFFICE OF PETITIONS

In re Application of :
Rafael Menegassi De Almeida et al :
Application No. 11/099,476 : DECISION ON PETITION
Filed: April 6, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. Q87367 : 37 CFR 1.102(c)(2)
:

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed July 25, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The instant petition includes a satisfactory statement. Accordingly, the above-identified application has been accorded "special" status. Telephone inquiries concerning this decision should be directed to Petitions Examiner Irvin Dingle at 571-272-3210.

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

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

The application is being forwarded to the Technology Center Art Unit 1764 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH LLP
SUITE 1400
3110 FAIRVIEW PARK DRIVE
FALLS CHURCH VA 22042

COPY MAILED

AUG 08 2005

OFFICE OF PETITIONS

In re Application of :
Ochiai et al. :
Application No. 11/099,481 : DECISION DISMISSING PETITION
Filed: 6 April, 2005 :
Atty Docket No. HITA.0685 :

This is a decision in reference to the "Petition and Response to Notice of Omitted Items" filed on 13 July, 2005, which is treated as a petition, requesting that the above-identified application be accorded a filing date of 6 April, 2005, with Pages 20-42 of the specification as a part of the original disclosure.

The petition is dismissed.

On 6 April, 2005, the application was filed.

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 6 April, 2005, but that Pages 20-42 of the specification (description and claims) appeared to have been omitted. In response, on 13 July, 2005, the present petition and a copy of Pages 20-42 of the specification were filed.

Petitioners concede that Pages 20-42 were inadvertently omitted from the application, but state that the omitted Pages are contained in Application No. 10/216,396, of which the present application is a division. Additionally, petitioners assert that the application transmittal letter for the present application submitted with the original application papers on 6 April, 2005,

states that the prior-filed application "is hereby incorporated by reference."

The petition is dismissed.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)).

In this case, however, petitioners neither assert that the missing pages of specification was deposited on 6 April, 2005, nor request the 5 July, 2005 (the date the missing pages of specification were supplied), filing date.

As Pages 20-42 were not present on 6 April, 2005, the application cannot be accorded a filing date of 6 April, 2005, with Pages 20-42 as a part of the original disclosure. Still further, the question of new matter is not an issue here. Pages 20-42 simply was not filed in the USPTO on 6 April, 2005.

MPEP 201.06(c) states that:

> … an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

Obviously, in view of the incorporation by reference of the prior application, Pages 20-42 of the specification are not new matter if they were a part of the disclosure of the prior application.

Petitioner should file Pages 20-42 as a preliminary amendment. If Pages 20-42 are filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of Pages 20-42 filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 6 April, 2005, using only the application papers filed on that date.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

APR 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Tomoyuki Hara :
Application No. 11/099,482 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. 023971-0551

This is a decision on the petition, filed April 9, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 5, 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 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

Mail Date: 04/20/2010

Applicant	: Atsushi Watanabe	: DECISION ON REQUEST FOR
Patent Number	: 7613545	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,504	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **932** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/099,507	04/06/2005	Michael Gude		7719

7590 08/12/2009

Dr. Michael Gude
Buchenhoehe 1
Kerpen, 50169
GERMANY

EXAMINER	
TAT, BINH C	

ART UNIT	PAPER NUMBER
2825	

MAIL DATE	DELIVERY MODE
08/12/2009	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dr. Michael Gude
Buchenhoehe 1
Kerpen 50169 DE GERMANY

In re Application of	:	
GUDE, Michael	:	DECISION ON PETITION
Application No. 11/099,507	:	
Filed: April 6, 2005	:	
Title: GATE-ARRAY OR FIELD PROGRAMMABLE GATE ARRAY	:	

This is a decision on the petition filed June 22, 2009 requesting that the holding of abandonment in the above-identified application be withdrawn.

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

The review of the application file reveals that the Amendment in response to the November 28, 2008 Office action was received and matched with the file. The application is not abandoned in fact.

Any inquiry regarding this decision should be directed to Quality Assurance Specialist Jose' G. Dees at (571) 272-1569.

Jose' G. Dees, Quality Assurance Specialist
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

COPY MAILED

MAY 25 2007

OFFICE OF PETITIONS

In re Application of

Yu-Sheng Lu

Application No. 11/099,509

Filed: April 6, 2005

Attorney Docket No. MR3401-23

: DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed April 23, 2007, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed June 30, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on October 1, 2006. A Notice of Abandonment was mailed on November 10, 2006.

The issue fee was received on April 23, 2007.

Form PTOL-85B, filed April 23, 2007 is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YOUNG & THOMPSON
745 SOUTH 23RD STREET
2ND FLOOR
ARLINGTON, VA 22202

COPY MAILED
AUG 1 1 2006
OFFICE OF PETITIONS

In re Application of Michimata et al. :
Application No. 11/099,511 : Decision on Petition
Filing Date: April 6, 2005 :
Attorney Docket No. 8038-1065 :

This is a decision on the petition under 37 CFR 1.181, filed June 5, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A non-final Office action was mailed December 15, 2005.

The Office action set an extendable shortened statutory period for reply of the later of one (1) month or thirty (30) days.

A reply was filed Tuesday, January 17, 2006. Since Monday, January 16, 2006, was a federal holiday, the reply was timely.

Due to USPTO error, the papers were improperly scanned into the Image File Wrapper for application no. 11/059,511.

Technology Center Art Unit 2815 was unaware a reply had been filed. As a result, a Notice of Abandonment was mailed May 22, 2006.

Discussion:

The Office has been able to locate the original papers filed January 17, 2006. The original papers have been moved to the correct Image File Wrapper.

Since petitioner did timely reply to the Office action mailed December 15, 2005, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Technology Center Art Unit 2815 will be informed of the instant decision and the application, including the papers filed January 17, 2006, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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

C. IRVIN McCLELLAND
OBLON SPIVAK McCLELLAND
MAIER & NEUSTADT, PC
1940 DUKE STREET
ALEXANDRIA, VA 22314

COPY MAILED
SEP 19 2006
OFFICE OF PETITIONS

In re Application of :
Takemasa Tamanuki et al :
Application No. 11/099,522 : DECISION GRANTING PETITION
Filed: April 6, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 265643US :

This is a decision on the petition, filed September 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 15, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2874 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Sept9\099522.wpd

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Jeong-Nam Kim	: DECISION ON REQUEST FOR
Patent Number	: 7576492	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,531	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **615** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BRAKE HUGHES BELLERMANN LLP
C/O CPA GLOBAL
PO BOX 52050
MINNEAPOLIS MN 55402

MAILED

APR 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Baird, et al.	:	
Application No. 11/099,539	:	ON REQUEST FOR
Filed: April 6, 2005	:	RECONSIDERATION OF
Attorney Docket Number: 0063-182001/BU4286	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 29, 2009. Applicants believe that the correct total PTA to date is 1058 days, not 599 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 a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time

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

The $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 Deposit Account No. 50-3521, as authorized.

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).

The 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 Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

REED SMITH LLP
1301 K STREET, N.W.
SUITE 1100 EAST TOWER
WASHINGTON, DC 20005

COPY MAILED

AUG 25 2006

OFFICE OF PETITIONS

In re Application of :
Kozam et al. : DECISION ON PETITION
Application No. 11/099,549 :
Deposited: April 6, 2005 :
Atty Docket No. 0106-0001C :

This is a decision on the "PETITION TO WITHDRAW NOTICE OF INCOMPLETE PROVISIONAL APPLICATION, AND REQUEST FOR RECONSIDERATION OF NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 C.F.R. § 1.53(e)," filed December 20, 2005, requesting that the above-referenced application be accorded a filing date of April 6, 2005.

Application papers in the above-identified application were deposited on April 6, 2005. However, on June 3, 2005, the Initial Patent Examination Division mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. This Notice set a two-month period for reply. No response having been received to the Notice mailed June 3, 2005, on October 20, 2005, the Office mailed a NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 CFR 1.53(e).

In response to the NOTICE OF TERMINATION, applicants disclose that they do not know if the drawings were inadvertently omitted or if they were mishandled by the Office. Applicants state that as shown on the Continuation Application cover letter,

applicants expressly and specifically incorporated the entirety of prior Application 10/282,227, as originally filed on October 29, 2002, by reference in its entirety. Accompanying the petition was a copy of Figure 1 referenced in the written description. Applicants request that this continuation Application be granted a filing date of April 6, 2005, that the notice to file missing parts be withdrawn as being in error, and that the notice of termination of proceedings be reconsidered and withdrawn; and that the petiton fee of $400 be refunded, and that the materials submitted heretofore submitted be made of record in the current application.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains … a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

(b) Except as provided in paragraph (a) of this section, an incorporation by reference must be set forth in the specification and must:

(1) Express a clear intent to incorporate by reference by using the root words "incorporat(e)" and "reference" (e.g., "incorporate by reference");

and

(2) Clearly identify the referenced patent, application, or publication.

However, in an application containing an explicit incorporation by reference statement in the specification or in a transmittal letter (if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered. See MPEP 201.06(c).

A review of the application as filed reveals that it included a preliminary amendment, with an explicit incorporation by reference of prior-filed application No. 10/201,609. The petition includes payment of the petition fee, an amendment submitting the omitted material, and the omitted drawings.

In view thereof, the petition under §1.182 is **GRANTED**. The amendment will be entered in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for according of a filing date of October 14, 2005, using the application papers received in the Office on that date and the drawings submitted on petition filed December 19, 2005, and for indication in the records of the Office that the application contains two (2) sheets of drawings (containing figures 1-2).

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

Telephone inquiries concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

REED SMITH LLP
1301 K STREET, N.W.
SUITE 1100 EAST TOWER
WASHINGTON, DC 20005

COPY MAILED

OCT 30 2006

OFFICE OF PETITIONS

In re Application of	:	**CORRECTED**
Kozam et al.	:	DECISION ON PETITION
Application No. 11/099,549	:	
Deposited: April 6, 2005	:	
Atty Docket No. 0106-0001C	:	

This is a decision on the "PETITION TO WITHDRAW NOTICE OF INCOMPLETE PROVISIONAL APPLICATION, AND REQUEST FOR RECONSIDERATION OF NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 C.F.R. § 1.53(e)," filed December 20, 2005, requesting that the above-referenced application be accorded a filing date of April 6, 2005.

Application papers in the above-identified application were deposited on April 6, 2005. However, on June 3, 2005, the Initial Patent Examination Division mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. This Notice set a two-month period for reply. No response having been received to the Notice mailed June 3, 2005, on October 20, 2005, the Office mailed a NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 CFR 1.53(e).

In response to the NOTICE OF TERMINATION, applicants disclose that they do not know if the drawings were inadvertently omitted or if they were mishandled by the Office. Applicants state that as shown on the Continuation Application cover letter,

applicants expressly and specifically incorporated the entirety of prior Application 10/282,227, as originally filed on October 29, 2002, by reference in its entirety. Accompanying the petition was a copy of Figure 1 referenced in the written description. Applicants request that this continuation Application be granted a filing date of April 6, 2005, that the notice to file missing parts be withdrawn as being in error, and that the notice of termination of proceedings be reconsidered and withdrawn; and that the petiton fee of $400 be refunded, and that the materials submitted heretofore submitted be made of record in the current application.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

(a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains … a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

(1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;

(3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

(b) Except as provided in paragraph (a) of this section, an incorporation by reference must be set forth in the specification and must:

(1) Express a clear intent to incorporate by reference by using the root words "incorporat(e)" and "reference" (e.g., "incorporate by reference");

and

(2) Clearly identify the referenced patent, application, or publication.

However, in an application containing an explicit incorporation by reference statement in the specification or in a transmittal letter (if the transmittal letter was filed prior to September 21, 2004), a petition for the granting of a filing date may be made under 37 CFR 1.182. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered. See MPEP 201.06(c).

A review of the application as filed reveals that it included a preliminary amendment, with an explicit incorporation by reference of prior-filed application No. 10/201,609. The petition includes payment of the petition fee, an amendment submitting the omitted material, and the omitted drawings.

In view thereof, the petition under §1.182 is **GRANTED**. The amendment will be entered in due course.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for **according of a filing date of April 6, 2005**, using the application papers received in the Office on that date and the drawings submitted on petition filed December 19, 2005, and for indication in the records of the Office that the application contains two (2) sheets of drawings (containing figures 1-2).

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

Telephone inquiries concerning this matter may be directed to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

Nancy Johnson

Charles Pearson
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

MAY 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Tomoki Kawamura	:	DECISION NOTING JOINDER
Application No. 11/099,550	:	OF INVENTOR AND PETITION
Filed: April 6, 2005	:	UNDER 37 C.F.R. § 1.47 MOOT
Atty Docket No. 123434	:	

This is in response to the "PETITION TO ACCEPT APPLICATION UNDER 37 C.F.R. §1.47(b)", filed January 3, 2006. This decision is made in light of the submission of substitute declaration filed February 1, 2006.

The petition is **DISMISSED AS MOOT**.

The above-identified application was filed on April 6, 2005, without an executed oath or declaration. In response to a "Notice to File Missing Parts of Application" mailed June 3, 2005, rule 47(b) applicants, on January 3, 2006, filed the initial petition under §1.47(b) and declaration executed by the rule 47(b) applicants on behalf of non-signing sole inventor Tomoki Kawamura. However, before a decision was rendered on the petition, on February 6, 2006, a declaration executed by inventor Kawamura was filed.

The declaration has been reviewed and found in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(b) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(b) status and no such status should appear on the file

wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

This application will be examined in due course.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

COPY MAILED

OCT 31 2006

OFFICE OF PETITIONS

In re Application of	:	**CORRECTED**
Tomoki Kawamura	:	DECISION ACCORDING STATUS
Application No. 11/099,550	:	UNDER 37 C.F.R. § 1.47
Filed: April 6, 2005	:	
Atty Docket No. 123434	:	

This is in response to the "PETITION TO ACCEPT APPLICATION UNDER 37 C.F.R. §1.47(b)", filed January 3, 2006. This decision is made in light of the submission of substitute declaration filed February 1, 2006.

The petition is **GRANTED**.

This decision is written to correct the previous decision dismissing the petition as moot. The undersigned erred in thinking that the document described as a fully executed substitute declaration was signed by sole inventor Tomoki Kawamura when it was actually signed only on his behalf.

The above-identified application was filed on April 6, 2005, without an executed oath or declaration. In response to a "Notice to File Missing Parts of Application" mailed June 3, 2005, rule 47(b) applicants, on January 3, 2006, filed the initial petition under §1.47(b) and declaration executed by the rule 47(b) applicants on behalf of non-signing sole inventor Tomoki Kawamura. Petitioner asserts that status under 1.47(b) is proper because sole inventor Kawamura cannot be reached or refuses to join in the application.

§1.47(b) provides that:

Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

Accordingly, a grantable petition under 37 CFR §1.47(b) requires: (1) an acceptable oath or declaration in compliance with 37 C.F.R. §1.63 and 1.64 or 1.175; (2) the rule 47 applicant must state his or her relationship to the inventor as required by 37 C.F.R. §1.64; (3) proof that the non-signing inventor cannot be found or reached after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (4) the petition fee; (5) a statement of the last known address of the non-signing inventor; (6) that rule 47 applicant make out a prima facie case (i) that the invention has been assigned to him or her or (ii) that the inventor has agreed in writing to assign the invention to him or her or (iii) otherwise demonstrate a proprietary interest in the subject matter of the invention; and (7) rule 47 applicant must prove that the filing of the application is necessary (i) to preserve the rights of the parties or (ii) to prevent irreparable damage.

The petition and declaration have been reviewed and found to satisfy all requirements above. The declaration is signed by Kazuo Sawada as authorized representative of the assignee company, and is in compliance with the requirements set forth in (1) and (2) above. The supporting declaration of facts of Tomoji Niwa shows that inventor Tomoki Kawamura has refused to join in the application after having been presented with the application papers. It is noted that the September 1, 2005 mailing included a copy of the application papers. Receipt of the petition fee is acknowledged. The petition includes a statement of the last known address of the non-signing inventor. Petitioner has demonstrated proprietary interest in the

application with submission of a copy of an executed assignment. Finally, rule 47(b) applicant states that the filing of the application is necessary to preserve the rights of the parties and to prevent irreparable damage.

This application is hereby accorded Rule 1.47(b) status.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

TOMOKI KAWAMURA
827 SOI-CHO
YOKKAICHI-SHI
MIE-KEN
JAPAN 827

COPY MAILED

OCT 31 2006

OFFICE OF PETITIONS

In re Application of :
Tomoki Kawamura :
Application No. 11/099,550 : LETTER
Filed: April 6, 2005 :
Atty Docket No. 123434 :

Dear Mr. Kawamura:

You are named as sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

JUN 0 2 2005
PATENT & TRADEMARK OFFICE
JC174

Attorney's Docket No.: 06457-007005

Pet. Dec.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Donald V. Smart
Serial No. : 11/099,584
Filed : April 6, 2005
Title : LASER PROCESSING

Attention: Group Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
Jacqueline M. Stone, Director
Technology Center 1700
7/15/05

REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD

With authorization, the undersigned attorney, on behalf of himself and the other attorneys of record, who are members or associates in the firm of FISH & RICHARDSON P.C., or who were so listed at the time of their appointment, and on behalf of any associate attorneys appointed by any of the attorneys on whose behalf this petition is filed, requests the approval of the Commissioner to withdraw as attorney(s)/agent(s) of record.

The present mailing address of the attorney(s)/agent(s) of record is:

Fish & Richardson P.C. (Washington, DC)
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500

Please mail all future correspondence to the applicant's attorney as follows:

William E. Hilton, Esq.
Gauthier & Connors
225 Franklin Street, Suite 3300
Boston, MA 02110

The reasons for which the permission of the Commissioner is sought for withdrawal of the attorney(s)/agent(s) of record is the client's request that responsibility for prosecution of the patent application be transferred to the law firm of Gauthier & Connors

Pet. Dec.

Notice of the attorney's request to withdraw is being sent simultaneously to the applicant and the relevant papers and files will immediately be sent to the applicant's attorney at Gauthier & Connors at the address set forth above.

At least thirty days remain for the applicant to take any action due in this case or an appropriate request for extension of time accompanies this request seeking additional time. The attorney(s)/agent(s) on whose behalf this petition is filed will ensure that the applicant has sufficient time after approval of this request to reply or employ another to reply to any outstanding requirement of the Patent and Trademark Office.

Two copies of this request are filed herewith. The Commissioner is authorized to apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: May 30, 2005

James E. Mrose

James E. Mrose
Reg. No. 33,264

Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331

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

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Kyung-shig Chung	: DECISION ON REQUEST FOR
Patent Number	: 7583923	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

COPY MAILED

JAN 14 2010

In re Application of	:	
Fu-Chang Lin	:	
Application No. 11/099,634	:	DECISION ON PETITION
Filed: April 6, 2005	:	
Attorney Docket No. 14212.152	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 8, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 9, 2008. The Notice of Abandonment was mailed April 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 an amendment , (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2625 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 2 2314

MAILED

SEP 30 2009

OFFICE OF PETITIONS

In re Patent of Ueda :
Patent No. 7,527,827 :
Issue Date: May 5, 2009 : Decision on Petition
Application No. 11/099,655 :
Filing Date: April 6, 2005 :
Attorney Docket No. 268594US26 DIV :

This is a decision on the "Petition for Certificate of Correction Under 37 CFR § 1.183" filed March 26, 2009, which requests waiver of the requirements of 37 CFR 3.81 in order for the Office to accept the correction of the assignee data on the front page of the above-identified patent. The petition is also being treated as a request under 37 CFR 3.81 to accept the correction of the assignee data.

The petition under 37 CFR 1.183 is **DISMISSED AS MOOT.**

The request under 37 CFR 3.81 is **GRANTED**.

Effective June 25, 2004, the practice relating to issuance of a patent to an assignee was modified by requiring that, after payment of an issue fee, a request for a certificate of correction must be filed in order to obtain issuance of the patent to an assignee. Thus, where the assignment data is submitted after payment of the issue fee, the patent document will not include the assignment information. Therefore, as 37 CFR 3.81(b) was modified to provide for issuance of the patent to the assignee, the practice of waiving the rule (37 CFR 3.81(a)) under 37 CFR 1.183 is longer necessary and has been eliminated.

37 CFR 3.81(b), as modified, reads:

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

The request under 37 CFR 3.81(b) will be granted when:

(1) A request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) The assignment was submitted for recordation prior to issuance of the patent, and
(3) A request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

The above requirements have been met.

The Certificates of Correction Branch will be notified of the instant decision and will issue the requested Certificate of Correction in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

Mail Date: 04/21/2010

Applicant	: W. Daniel Hillis	: DECISION ON REQUEST FOR
Patent Number	: 7662008	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,682	: 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 **1167** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

Mail Date: 05/18/2010

Applicant : W. Daniel Hillis
Patent Number : 7662008
Issue Date : 02/16/2010
Application No: 11/099,682
Filed : 04/04/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1191** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE WA 98111-1247

COPY MAILED

SEP 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,474,944
Issued: January 6, 2009
Application No. 11/099,684
Filed: April 4, 2005
Dkt. No.: 030048062US1

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT UNDER
: 37 CFR 1.705(d)

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R § 1.705(D)," filed March 5, 2009. This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(d).

The request for reconsideration of patent term adjustment (PTA) is DISMISSED.

The above-identified application matured into U.S. Pat. No. 7,474,944 on January 6, 2009. The patent issued with a PTA of 619 days. The request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See, 37 CFR 1.705(d). Patentees request that the patent term adjustment be increased from 619 days to 896 days. Patentees request an increase of 277 days pursuant to 35 USC 154(b)(1)(B). Patentees assert that the period of adjustment pursuant to 35 USC 154(b)(1)(A) is 619 days and that the period of adjustment pursuant to 35 USC (b)(1)(B) is 277 days. Patentees assert that there is no overlap between the two periods of delay.

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

The Office agrees that certain action was not taken within a specified time frame, and, thus, the entry of a period of adjustment of 619 days is correct. At the time of issuance of the patent, the application was pending three years and 277 days. At issue is whether patentees should accrue an additional 277 days of patent term adjustment for the Office taking in excess of three years to issue the patent as well as 619 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the period of 277 days delay in issuance of the patent overlaps with the period of 619 days of examination delay. 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 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, April 4, 2005, to the date the patent issued on January 6, 2009. Prior to the issuance of the patent, 619 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 277 days for Office delay in issuing the patent overlap with the 619 days of Office examination delay. The Office did not delay 619 days and also delay an additional 277 days. Accordingly, as the 277 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 619 days attributable to grounds specified in § 1.702(a)(1), entry of both periods is not warranted.

---

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

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Cooley Godward Kronish LLP
Attn: Patent Group
Suite 500
1200-19th Street, NW
Washington DC 20036-2402

COPY MAILED

AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Andrea Pizzarulli	:	
Application No. 11/099,692	:	DECISION ON PETITION
Filed: April 6, 2005	:	TO WITHDRAW
Attorney Docket No. TORI-001/00US	:	FROM RECORD
	:	

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 5, 2007.

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

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the applicant of the patent application on March 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Greenberg Traurig LLP (LA)**
2450 Colorado Avenue
Suite 400E
Intellectual Property Department
Santa Monica, CA 90404

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 0 2 2006

OFFICE OF PETITIONS

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

In re Application of
Masanori Tominaga et al. :
Application No. 11/099,700 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No: 052388 :

This is a decision on the petition filed January 13, 2006, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

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

The application was held abandoned on July 5, 2005, for failure to file a timely response to the Notice to File Missing Parts mailed May 3, 2005. A two month period for reply was set. No response and no extension of time having been filed, accordingly, a Notice of Abandonment was mailed on January 11, 2006.

Petitioner asserts that a response to the Notice to File Missing Parts was timely filed and includes a copy of the response and a post card receipt, date stamped July 1, 2005 by the USPTO as proof of timely filing. Petitioner concedes though that the application serial number was incorrectly identified on the response and the post card receipt.

While, the requirement for filing papers with the USPTO is that every paper bear an appropriate application no. or identifier, a review of the materials submitted show that other identifiable information was found to be on the papers filed as the response and could therefore have been properly matched. As such, the papers were not matched. The totality of the evidence however shows that the response was timely filed. The response filed July 1, 2005 and the fees paid have now been moved from the incorrect application number file to the file of 11/099,700.

Accordingly, the Notice of Abandonment mailed January 11, 2006 was mailed in error and is hereby withdrawn. No petition fee is due and none has been charged. In view thereof, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

3-6-07

wk

In re Application of	:	
Witty et al.	:	
Serial Number: 11/099,707	:	DECISION
Filed: April 5, 2005	:	ON
For: APPARATUS AND METHOD FOR PROCESS MONITORING	:	PETITION

This is in response to the request filed December 6, 2006, requesting permission for withdrawal as attorney from the above-identified application.

As revocation has been effected, the petition is **dismissed** as moot.

The attorneys/agents are no longer of record for the above identified patent application

William Krynski, Quality Assurance Specialist
Technology Center 1700
Chemical and Materials Engineering
Technology Center 1700

Paul Davis
Heller Ehrman
275 Middlefield Road
Menlo Park, CA 94025-3506

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

Neustel Law Offices, Ltd.
2534 South University Drive
Suite 4
Fargo, ND 58103

COPY MAILED

SEP 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Roger I. Quint	:	
Application No. 11/099,923	:	DECISION ON PETITION
Filed: April 6, 2005	:	TO WITHDRAW
Attorney Docket No. H-ONET003	:	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 September 9, 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 Michael S. Neustel, on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

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

The correspondence address has been changed. The address changed is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: 123ID, Inc.
1011 11th Avenue NE, Suite D
Grand Forks, MN 56721

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/099,923	04/06/2005	Roger I. Quint	H-ONET003

CONFIRMATION NO. 1493

POWER OF ATTORNEY NOTICE

65215
NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO, ND 58103

OC00000032336799

Date Mailed: 09/30/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

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

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

GARDERE / JAMES HARDIE
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS, TX 75201

COPY MAILED
JUL 10 2006
OFFICE OF PETITIONS

In re Application of :
Naji et al. : DECISION ON PETITION
Application No. 11/099,748 :
Filed: April 5, 2005 :
Atty Docket No. BALDS2.019DV1:

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 CFR 1.181(a)" filed May 3, 2006.

The above-identified application became abandoned for failure to file a reply to the restriction requirement mailed October 4, 2005. This Office action set a one-month period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension obtained, the above-identified application became abandoned on November 5, 2005. A Notice of Abandonment was mailed on April 11, 2006.

In response, applicants timely filed the instant petition. Petitioner states that the Response to the Office action was timely filed and was received by the Office on November 7, 2005, as stamped on their return postcard. In support thereof, petitioner submitted a copy of their return postcard and the response.

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

petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on November 7, 2005; 2) it specifically identifies the items being filed, including "Amendment in 1 pgs RRR" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, the evidence shows that the response was received on November 7, 2005. Further, a review of the response reveals that it contained a certificate of mailing under § 1.8, attesting to deposit in first class mail on November 4, 2005. Accordingly, pursuant to § 1.8, the response shown to have been received November 7, 2005 is considered timely filed.

In view thereof, the notice of abandonment mailed April 11, 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.

Technology Center AU 1755 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw the holding of abandonment and for the examiner to consider the response resubmitted on petition filed May 3, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 113005

Mr. David D. Brush
Westman, Champlin & Kelly, P.A.
Suite 1600—International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319

Appl No.: 11/099772 :
Inv: Casey : **DECISION ON PETITION**
Filed: April 6, 2005 : **UNDER** *37 CFR 1.324*
For: Integrated Circuit with Relocatable Processor Hardmac :

This is a decision on the applicant's "Petition to Correct And/Or Add to Originally Named Inventors to a Patent" originally filed under 37 CFR 1.324 filed October 19, 2005. However, as the application has not bloomed into a US Patent, the petition has been converted into a petition under 37 CFR 1.48. The applicant requests that the names of Thomas W. McKernan and Danny C. Vogel be added to the sole indicated inventor as originally filed, namely, Michael J. Casey.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.48, the petition is hereby **granted**.

The application is being forwarded to the Technical Support Branch for correction of the inventorship as requested naming only the actual inventor or inventors.

Matthew S. Smith

Supervisory Primary Examiner AU 2825

Technology Center 2800

29 OCT 2008

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

ANNA WU
P.O. BOX 93286
CITY OF INDUSTRY, CA 91715

In re Application of	:
LI, Dapeng et al.	:
Application No. 11/099,780	: DECISION ON PETITION
Filed: 28 March 2008	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AWUPCT032805-01	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 15 July 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international application.

The petition is **DISMISSED** without prejudice.

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

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

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

The petition does not satisfy item (1) above.

Although applicant alleges that the reference required under 35 USC 120 has been provided, a review of the file did not locate a proper reference to international application PCT/CN2003/000803, in either an amendment to the first line of the specification or in an

application data sheet. Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Further correspondence may be filed electronically via EFS-Web or should be addressed as follows:

By mail:	Mail Stop PCT Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop PCT Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0459 ATTN: PCT Legal Administration

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292.

Boris Milef
Legal Examiner
PCT Legal Administration

25 AUG 2009

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

ANNA WU
P.O. BOX 93286
CITY OF INDUSTRY, CA 91715

In re Application of	:
LI, Dapeng	:
Application No. 11/099,780	: DECISION ON PETITION
Filed: 28 March 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AWUPCT032805-01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 16 June 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international application.

The petition is **DISMISSED** without prejudice.

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

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

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

The petition does not satisfy items (1) and (3) above.

With regard to item (1), in applicant's amendment to the first line of the specification, applicant alleges that this application is a national phase filing of PCT/CN2003/000803. It is not. It is a filing under 35 USC 111(a). The amendment is defective.

With regard to item (3), it is noted that approximately ten months have passed since the decision on applicant's initial petition under 37 CFR 1.78(a)(3) was mailed. Applicant is required to provide an explanation as to the delay in filing the present renewed petition.

Further correspondence may be filed electronically via EFS-Web or should be addressed as follows:

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

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

By fax: (571) 273-0459
ATTN: PCT Legal Administration

Any questions concerning this matter may be directed to Erin Thomson at (571) 272-3292.

/Bryan Lin/
Bryan Lin
Legal Examiner
PCT Legal Administration

24 FEB 2010

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

Lei Yu
12431 Ansin Circle Drive
Potomac MD 20854

In re Application of	:
LI, Dapeng et al.	:
Application No. 11/099,780	: DECISION ON PETITION
Filed: 28 March 2008	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AWUPCT032805-01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed 07 December 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed international applications.

The petition is **GRANTED**.

A 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 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 international 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 USC 365(c) and 35 U.S.C. § 120 to the prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

Any inquiries concerning this decision may be directed to the Erin Thomson at (571) 272-3292. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1614 for appropriate action on the amendment filed 07 December 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 USC 365(c) and 35 U.S.C. § 120 to the prior-filed international application.

/Bryan Lin/
Bryan Lin
Legal Examiner
PCT Legal Administration

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

9/27/07

BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET, SUITE 2700
INDIANAPOLIS, INDIANA 46204

In re Application of:
Roche, Bradley Jon et al
Serial No.: 11/099,805
Filed: April 6, 2005
Docket: PLR-00-675.01P
Title: INTEGRATED LIQUID-GAS SEPARATOR AND RESERVOIR

DECISION ON PETITION TO WITHDRAW HOLDING OF FINALITY

This is a decision on the petition filed on June 29, 2007 to withdraw the finality of the Office Action of May 2, 2007. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

In the petition, the applicants requested withdrawal of the finality of the Office action dated May 2, 2007. Petitioners claim that the finality of the Office action dated May 2, 2007 is premature because it contains new grounds for rejection not necessitated by the applicants' response dated February 1, 2007.

The record shows that:

1. On November 1, 2006 the examiner mailed a Non-Final Rejection citing 35 U.S.C. § 102 and § 103 as ground for rejection.
2. In response to the Office action mailed November 1, 2006, the applicants filed an Amendment on February 6, 2007. Claims 6, 12, 25, 32, and 37 were amended and claims 42-46 were added.
3. On May 2, 2007 the examiner issued a Final Rejection, again citing 35 U.S.C. § 102 and § 103 as grounds for rejection.
4. The present petition, filed on June 29, 2007 request withdrawal of the finality of the Office action mailed on May 2, 2007 as premature.
5. On June 29, 2007 the applicants also filed an Amendment After Final adding additional limitations to independent claims and introduced additional dependent claims 47-53.

Discussion and Analysis

Relevant portions of MPEP 706.07(a): Final Rejection, When Proper on Second Action, states:

> Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The petitioners claim that the addition of eight lines of text to the Claim Rejection – 35 U.S.C. § 102 section of the May 2, 2007 Office action that were not included in the November 1, 2006 Office action constitute new grounds for rejection. In order to determine whether or not the amendment filed on February 6, 2007 necessitated the new grounds for rejection in the Office action of May 2, 2007, a comparison of the amended claims filed on February 6, 2007 and the original claims filed on April 6, 2005 must be made. A review of the amended claims presented on February 6, 2007 shows that claims 42-46 were presented as new claims in this amendment. The eight additional lines in the text of the Claim Rejection – 35 U.S.C. § 102 section found on page 3 of the May 2, 2007 Office action solely address these newly added claims. Therefore, the amendment to the claims filed on February 6, 2007 necessitated the new grounds for rejection presented in the final Office action issued on May 2, 2007.

The petitioners also claim that the examiner submitted new grounds for the rejection of claim 1. In the Office action mailed November 1, 2006 the examiner rejected claim 1 under 35 U.S.C. § 102(e) as anticipated by Matsuda et al. In discussing Matsuda, the examiner made a typographical error, referring to "a liquid reservoir ***41*** separate from the engine and a separator ***40*** within the reservoir." In the Office action mailed May 2, 2007 the examiner corrected the typographical error referring to " a liquid reservoir ***40, 41*** separate from the engine; and a separator ***45, 49*** within the reservoir." The petitioners claim that this typographical error resulted in a clear shift in position by the examiner, such that the applicants were not "given an opportunity to respond to this new ground of rejection without being under final." Despite the typographical error, the examiner stated that Matsuda taught a separator within a reservoir in the non-final Office action mailed November 1, 2006. In the Remarks/Arguments filed by the applicants on February 6, 2007, the applicants fully discussed the Matsuda disclosure arguing that Matsuda did not teach a separator within a liquid reservoir. The examiner considered these arguments but did not find them convincing and maintained that Matsuda did teach a separator within a liquid reservoir. By merely correcting the typographical error, the examiner did not submit new grounds for the rejection of claim 1. The applicants' arguments that Matsuda did not teach a separator within a liquid reservoir were considered by the examiner. Therefore, the applicant was in fact given an opportunity to respond this ground for rejection and the finality of the Office action mailed May 2, 2007 was appropriate.

A review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 706.07(a). The finality of the Office action is appropriate.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the finality of the Office action dated May 2, 2007 is proper.

The application is being forwarded to Art Unit 3747 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is dismissed.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Mail Date: 04/20/2010

Applicant	: Carlos Lopez Rabadan	: DECISION ON REQUEST FOR
Patent Number	: 7600115	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1219** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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.
11/099,833	04/06/2005	D. Amnon Silverstein	200400342-1	9298

7590 04/18/2008

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

EXAMINER	
AZARIAN, SEYED H	

ART UNIT	PAPER NUMBER
2624	

NOTIFICATION DATE	DELIVERY MODE
04/18/2008	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: 04/21/2008 DTERRY
02/06/2007 RMEBRAHT 00000003 082025 11099833
01 FC:1402 500.00 CR
03 FC:1801 200.00 CR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

LAW OFFICE O IDO TUCHMAN
SUITE 503
69-60 108TH STREET
FOREST HILLS NY 11375

In re Application of	:
Mohmmad Banikazemi et al	:DECISION GRANTING FILING
Application No. 11/099,842	:DATE OF April 5, 2005
Filed: April 5, 2005	:
Attorney Docket No. YOR920050068US1	:

This is a decision on the petition filed May 10, 2005, requesting that the above-identified application be accorded a filing date of April 5, 2005, rather than the presently accorded date of April 6, 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 April 5, 2005 pursuant to 37 CFR 1.10. In support, petitioner has submitted a copy of Express Mail label No. EV332925819US showing a stamped date of April 5, 2005. 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 April 5, 2005.

The petition is **granted**.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

This matter is being referred to the Office of Initial Patent Examination for processing with a filing date of **April 5, 2005**, and for mailing of a corrected filing receipt.

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

COPY MAILED

APR 16 2007

OFFICE OF PETITIONS

In re Application of
Flores et al.
Application No. 11/099,855
Filed: April 6, 2005
Title: Canine Cold-and Menthol-Sensitive Receptor 1

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed March 5, 2007.

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

This application was held abandoned September 7, 2006 for failure to timely reply to the non-final Office Action mailed on June 6, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed February 26, 2007.

Petitioner asserts that a reply to the non-final Office Action and a two months extension of time were timely submitted on November 6, 2006. As evidence, petitioner has submitted a copy of the Image File Wrapper page from PAIR.

The response submitted on November 6, 2006 has been located in the Office.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to Art Unit 1649 for further review of the reply.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BRUCE A. JAGGER
Brooks Kushman P.C.
1000 Town Center
22nd Floor
Southfield, MI 48075

Mail Date: 06/22/2010

Applicant	: Andrew J. Sherman	: DECISION ON REQUEST FOR
Patent Number	: 7635515	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/099,857	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **604** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Peter G. Carroll
MEDLEN & CARROLL , LLP
Suite 350
101 Howard Street
San Francisco, CA 94105

Mail Date: 04/21/2010

Applicant	: Jetze J. Tepe	: DECISION ON REQUEST FOR
Patent Number	: 7652056	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,885	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **949** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Langer et al.	:	DECISION ON PETITION
Application No. 11/099,886	:	TO WITHDRAW
Filed: April 6, 2005	:	FROM RECORD
Attorney Docket No. 0492611-0618	:	
(MIT 9042 DI)		

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 15, 2009.

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

A review of the file record indicates that on June 3, 2009 the power of attorney to Choate, Hall & Stewart LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Wolf Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

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

PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

Mail Date: 04/21/2010

Applicant	: Annapurna Karicherla	: DECISION ON REQUEST FOR
Patent Number	: 7632235	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MAILED

MAY 17 2010

OFFICE OF PETITIONS

WATERS TECHNOLOGIES CORPORATION
34 MAPLE STREET - LG
MILFORD, MA 01757

In re Application of :
Bruce J. Compton, et al. :
Application No. 11/099,891 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. AF-308-310 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 8, 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 September 3, 2009. A 2-month petition for extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 4, 2010. This decision precedes the mailing of a Notice of Abandonment. On March 8, 2010, 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 Siqun Huang 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.

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 $1,620; and (3) an adequate statement of unintentional delay[1].

It is noted that fees for a 1-month petition for extension of time were submitted with the present petition on March 8, 2010. Since no extension of time fees are due on a petition for revival, the $130 extension fee is being credited to counsel's deposit account.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application is being referred to Technology Center AU 1797 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

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

SEMICONDUCTOR COMPONENTS INDUSTRIES, LLC
INTELLECTUAL PROPERTY DEPT. - A700
5005 E. MCDOWELL ROAD, P.O.BOX 62890
PHOENIX, AZ 85082

Mail Date: 04/20/2010

Applicant	: Shanghui Larry Tu	: DECISION ON REQUEST FOR
Patent Number	: 7632760	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/099,895	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **642** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

DATE : MARCH 15, 2007

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 11099909 Patent No.: 7167007B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2858
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

KIRKPATRICK & LOCKHART NICHOLSON GRAHAM, LLP
STATE STREET FINANCIAL CENTER
ONE LINCOLN STREET
BOSTON, MA 02111-2950

In re Application of	:	
Johan M. Grundlingh	:	DECISION ON REQUEST
Application No. 11/099,916	:	TO WITHDRAW FROM
Filed: April 6, 2005	:	RECORD
Attorney Docket No. ICE-016C1	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 CFR § 1.36(b) or 37 CFR § 10.40 filed on December 29, 2005.

The request is **NOT APPROVED**.

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

While the assignee attempted to intervene in the above-identified application, the power of attorney filed January 23, 2006 does not comply with 37 CFR 3.73(b) in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO or copies of all the assignments have not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 CFR 3.73(b) must be satisfied. A form for complying with the provisions of 37 CFR 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96). A courtesy copy of this decision is being mailed to the address noted below.

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

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

Telephone inquires concerning this decision should be directed to Andrea Smith at 571-272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee:

cc: BERKELEY LAW & TECHNOLOGY GROUP
1700 NW, 167TH PLACE
SUITE 240
BEAVERTON, OR 97006

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : Jan. 15, 2008

TO SPE OF : ART UNIT 2817
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/099916 -7151407

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 116

Thank You For Your Assistance

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

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

Comments: Error due to applicant's amendment of 12/19/05. The fee should be charged

2817

Robert J. Pascal
SPE2817

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BANNER & WITCOFF LTD
1100 13TH STREET NW
SUITE 1200
WASHINGTON DC 20005-4051

COPY MAILED

SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Timonty J. Kniveton	:	DECISION ON PETITION
Application No. 11/099,929	:	
Filed: April 5, 2005	:	
Attorney Docket No. NOKIA.60US	:	

This is a decision on the petition for expungement under 37 CFR 1.59(b), filed July 11, 2008, and supplemented on July 29, 2008.

The petition under 37 CFR 1.59(b) is **GRANTED**.

Petitioner requests that the home address of the inventor listed on the declaration submitted on filing be expunged. Petitioner has submitted a substitute declaration containing a mailing address. Each of the criteria for granting the request has been satisfied. See MPEP 724.05.

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be

disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be the removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned" from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return" from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

The images of the declaration submitted on filing will be removed from the Official file.

The application is being forwarded to Group Art Unit 2618 for examination.

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

Cliff Congo
Petitions Attorney
Office of Petitions

Tech Center Routing Sheet

COPY MAILED

SEP 0 2 2008

OFFICE OF PETITIONS

Application #	11/183,532	Doc Code Date	
Date of Request	8/29/08	Doc Code	(if not listed)

☐ 136A Blanket Authorization to charge fee	☐ CRFE CRF Entered	☐ NPL Non Patent Literature
☐ A.. Amendment	☐ CTMS Misc. Office Action	☐ NRES Letter restarting period of repsonse
☐ AMSB Amendment Submitted with CPA/RCE	☐ DISQ Terminal Disclaimer Approval Form	☐ NTC.A.NONCPL Notice of Non-Compliant Amendment
☐ ANE.I Amendment After Final, Initialed by Examiner	☐ EXIN Examiner Interview	☒ PET.DEC.TC Petition Decision Routed to TC
☐ APDEC Board of Appeals Decision	☐ FOR Foreign Reference	☐ SA Supplemental Response or Amendment
☐ APEA Examiner's Answer to Appeal Brief	☐ IIFW File Wrapper Issue Information	☐ SRFW File Wrapper Search Information
☐ BIB Bibiliographic Data Sheet	☐ N271 Response to Amendment under 312	☐ SRNT Examiner Search Notes
☐ CLM Claims	☐ N570 Accepted Change to Power of Attorney	☐ WCLM Claim Worksheet
☐ CLMPTO USPTO Prepared Claim Set	☐ NFDR Formal Drawings Required	☐ WFEE Fee Worksheet
☐ CRFD CRF Defective	☐ NOA Notice of Allowability or Allowance	☐ XRUSH Response to a Printer Query

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

COPY MAILED

SEP 0 2 2008

OFFICE OF PETITIONS

HEDMAN & COSTIGAN PC
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

In re Application of
Ugo Gussalli Beretta
Application No. 11/183,532
Filed: July 18, 2005
Attorney Docket No. 163-650

DECISION ON PETITION

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed July 31, 2008.

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

The holding of abandonment is **WITHDRAWN**.

The above-identified application was held abandoned for failure to timely file a reply to the non-final Office action mailed January 17, 2008. This Office action set an extendable period for reply of one (1) month. No reply having been received, the above-identified application became abandoned on February 18, 2008. The Office mailed a Notice of Abandonment on July 24, 2008.

Petitioner has supplied a copy of an Auto-Reply Facsimile Transmission from the USPTO, showing that an 6 page Response and an extension of time were filed in the above-identified application on April 11, 2008.

In view of the above, the holding of abandonment is withdrawn.

As petitioner did not submit any evidence that the fee for the two month extension of time was charged to his deposit account on April 11, 2008, that fee has now been charged.

The application is being forwarded to Group Art Unit 3641 for consideration of the Response, filed April 11, 2008, a copy of which has been supplied with the instant petition.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

DEC 0 9 2009

OFFICE OF PETITIONS

MICHAEL WEINBERGER
RM. 303
236 WEST 26 STREET
NEW YORK CITY, NY 10001

In re Application of
Michael Weinberger
Application No. 11/099,937
Filed: April 6, 2005
Attorney Docket No. None

ON PETITION

This is a decision in response to the petition, filed October 6, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Robert W.J. Usher appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Usher desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Usher, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed June 15, 2009. This decision precedes the mailing of a Notice of Abandonment. On October 6, 2009, the present petition was filed.

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 petition is found to satisfy the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Petitioner is reminded that the grant of a petition under 37 CFR 1.137 is not a determination that any reply is complete, since the petition may be granted if the reply appears to be *bona fide*. After revival of the application, the Examiner may, upon more detailed review, determine that the reply is lacking in some respect.

The application is being referred to Technology Center AU 3749 for appropriate action by the Examiner in the normal course of business on reply received October 6, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: ROBERT W. J. USHER
PATENT AGENT
1133 BROADWAY, #1515
NEW YORK, NY 10010

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

K. Brian Matlock
58 Goose Haven Ct.
Sacramento CA 95834

COPY MAILED
NOV 0 2 2006
OFFICE OF PETITIONS

In re Application of :
Dean Sanders :
Application No. 11/099,945 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. IE 001 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2006, to revive the above-identified application.

This application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed on May 3, 2005, which set a two-month extendable period to reply. Accordingly, this application became abandoned on July 4, 2005. A Notice of Abandonment was mailed on January 11, 2006.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is **granted.**

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 12 2008

Matlock Law Group
1485 Treat Boulevard, Suite 200
Walnut Creek, CA 94597

In re Application of	:	
Dean Sanders	:	
Application No. 11/099,945	:	DECISION ON PETITION
Filed: April 6, 2005	:	
Attorney Docket No. 004IE - 001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 10, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 11, 2007. A Notice of Abandonment was mailed on March 18, 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 after non-final, (2) the petition fee of $770, 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.

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 April 22, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by treasury.

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

This application is being referred to Technology Center AU 2836 for appropriate action by the Examiner in the normal course of business on the reply received April 22, 2008.

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
www.uspto.gov

COPY MAILED

OCT 13 2009

OFFICE OF PETITIONS

Matlock Law Group, PC
1485 Treat Blvd.
Suite #200
Walnut Creek CA 94597

In re Application of	:	
Dean SANDERS	:	
Application No. 11/099,945	:	DECISION ON PETITION
Filed: October 07, 2006	:	
Attorney Docket No. 024994.008	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 22, 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 02, 2009, as required by the Notice of Allowance and Fee(s) Due, December 01, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 03, 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 $755.00 and publication fee of $300.00; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

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
DIW oct-05

ENGELHARD CORPORATION
101 WOOD AVENUE
ISELIN NJ 08830

COPY MAILED

OCT 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Glenn et al.	:	
Application No. 11/099,993	:	ON PETITION
Filed: 6 April, 2005	:	
Atty Docket No. 5033A	:	

This is a decision on the petition under 37 CFR 1.53(b), filed on 15 August, 2005, which is treated as a petition requesting that the above-identified application, without drawings, be accorded a filing date of 6 April, 2005.

The application was filed on 6 April, 2005, without drawings.[1] Accordingly, on 4 May, 2005, Initial Patent Examination Division mailed a "Notice of Incomplete Nonprovisional Application" stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary. In response, on 16 May, 2005, *inter alia*, one (1) sheet of drawings was filed. The application was then accorded a filing date of 16 May, 2005.

On 15 August, 2005, the present petition was filed. Petitioners state that the drawings were not present among the application papers filed on 6 April, 2005, but argue that the drawings are not necessary.

[1] 35 U.S.C. § 113 (first sentence) requires a drawing"where necessary for the understanding of the subject matter sought to be patented".

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).[2] A review of the record reveals that Claims 1-18 are method claims. Therefore, the present application is deemed to be an application which does not require a drawing for an understanding of the invention. Accordingly, the application, as filed, is entitled to a filing date.

The petition is granted. Since the petition was necessitated by an error on the part of the USPTO, the petition fee submitted with the present petition is unnecessary and will be credited to counsel's deposit account, No. 05-1070 as authorized in the present petition.

The "Notice of Incomplete Nonprovisional Application" mailed on 4 May, 2005, was sent in error and is hereby vacated.

The application will be processed and examined using only the application papers filed on 6 April, 2005. The sheet of drawings filed on 16 May, 2005, will not be considered a part of the original disclosure, but will be retained in the application file.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of 6 April, 2004, using only the application papers present on filing and an indication that no (0) sheets of drawings were present on filing, and for issuance of a corrected Filing Receipt.

Telephone inquiries specific to this matter should be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[2] MPEP 601.01(f).

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

VINCENT BELUSKO
MORRISON & FOERSTER, LLP
555 W FIFTH STREET, SUITE 3500
LOS ANGELES, CA 90013

COPY MAILED

JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
GRAY, et al. :
Application No. 11/100,034 : DECISION ON PETITION
Filed: April 5, 2005 : TO WITHDRAW
Attorney Docket No. **01780/100D144-US4** : 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 29, 2008.

The request is **NOT APPROVED.**

A review of the file record indicates that Vincent Belusko of Morrison & Foerster, LLP 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DARBY & DARBY P.C.**
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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

COPY MAILED

MAY 03 2007

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :

TURNER, Kevin M. :
Application No. 11/100,042 : DECISION ON PETITION
Filed: April 06, 2005 : TO WITHDRAW
Attorney Docket No. **3210-6812US** : FROM RECORD
:

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 12, 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, is no longer a client of this firm, does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KEVIN M. TURNER**
MERLIN'S FORGE, INC.
592 MAIN
BERN, ID 83220

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

COPY MAILED

JUL 0 9 2007

OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of :

TURNER, Kevin M. :
Application No. 11/100,042 : DECISION ON PETITION
Filed: April 06, 2005 : TO WITHDRAW
Attorney Docket No. **3210-6812US** : FROM RECORD
:

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, 2007.

The request is **APPROVED**.

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

The request was signed by Allen Turner. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **KEVIN M. TURNER**
MERLIN'S FORGE, INC.
592 MAIN
BERN, ID 83220

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

PHIL SIEG II
CROWN MARKETING GROUP
SUITE 100
1222 TREMONT STREET
CHATTANOOGA, TN 37405

COPY MAILED

JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Phil Sieg :
Application No. 11/100,072 : ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. N/A :

This is a decision on the papers styled, "Reply to Notice of Omitted Items in a Nonprovisional Application Filed under 37 CFR 1.53(b) and Petition Under 37 CFR 1.53(e) and 1.181 to Accord this Application its April 5, 2005 Filing Date," filed on June 28, 2005, which has been treated as a Petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of April 5, 2005, including Figures 12A-12D and 13A-13D described in the specification.

The application was filed on April 5, 2005. However, on May 4, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application" (Notice) that stated the application had been accorded a filing date, but "Figures 12A-12D, 13A" described in the specification appear to have been omitted.[1]

In response, on June 28, 2005 the instant petition and nine (9) sheets of drawings were submitted. A copy of applicant's postcard receipt that acknowledges receipt of "Drawings 9 pages" on April 5, 2005, accompanied the papers. A review of the application file indicates the presence of only seven (7) sheets of drawings originally filed on April 5, 2005, with the two sheets that contain Figures 12A-12D and 13A-13D missing. It is assumed that the missing sheets of drawings containing Figures 12A-12D and 13A-13D were misplaced by the Office.

In view of the above, the petition is granted.

The petition fee will be refunded by treasury check.

[1] It is noted that pages 10 and 11 in the specification describe Figures 12A-12D and Figures 13A-13D.

This application will be returned to OIPE for processing with a filing date of April 5, 2005, using the two (2) sheets of drawings, containing Figures 12A-12D and 13A-13D, that were submitted with the petition on June 28, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: March 12, 2008
TO: Certificates of Correction Branch
FROM: Edward Urban
SPE, Art Unit 2618
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,333,781 as specified on the attached Certificate.

/Edward Urban/
Supervisory Patent Examiner, Art Unit 2618

Edward Urban, SPE
Art Unit 2618

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,333,781
Patented: 2/19/08

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Stockstad, Troy, Chandler, AZ, USA
Hieta, Alexander Wayne, Phoexiz, AZ, USA
Madsen, Ulrik Riis, Herning, Denmark

/Edward Urban/
Supervisory Patent Examiner,
Art Unit 2618

Edward Urban
Supervisory Patent Examiner
Art Unit 2618

APPROVED: /SH/ (09/01/2009)

C OFC

4319.72725

PATENT APPLICATION

OIPE IAP22 MAR 07 2008 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keiji Hayashi et al.
Serial No.:	11/100,136
Conf. No.:	1985
Filed:	04/06/2005
For:	BACKLIGHT HAVING DISCHARGE TUBE, REFLECTOR AND HEAT CONDUCTION MEMBER CONTACTING DISCHARGE TUBE
Art Unit:	2875
Examiner:	Husar, Stephen F.
Patent:	7,309,146
Issued:	December 18, 2007

I hereby certify that this paper is being deposited with the United States Postal Service as FIRST-CLASS mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, ATTN: Certificate of Corrections Branch, on this date.

March 4, 2008
Date

Registration No. 37,538
Attorney for Applicant(s)

Certificate of Correction MAR 11 2008

REQUEST FOR CERTIFICATE OF CORRECTION UNDER RULE 322

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: Certificate of Corrections Branch

Dear Sir:

In accordance with 37 C.F.R. § 1.322, patentees, through their attorneys, respectfully request that a Certificate of Correction be issued in the above-referenced patent.

The errors occurred as a result of mistakes on the part of the Patent and Trademark Office and the changes include the following:

RECEIVED-USPTO Patent Publication

MAR 11 2008

On the Patent Face:

Under "[75] Inventors:" the following names should be deleted (See Petition to Change Inventorship Pursuant to 37 C.F.R. §1.48(b) mailed February 22, 2006 (copy enclosed)):

Akio Sotokawa, Kawasaki (JP)

Seiji Hachisuka, Kawasaki (JP)

RECEIVED-USPTO
Patent Publication
MAR 11 2008

REMARKS

A Certificate of Correction incorporating the delineated change is enclosed in duplicate herewith. Since the mistakes were on the part of the Patent and Trademark Office, a Certificate of Correction should be issued without expense to the patentee and such is respectfully requested.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By
James K. Folker
Registration No. 37,538

March 4, 2008

300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: 312.360.0080
Facsimile: 312.360.9315
Customer No. 24978

RECEIVED-USPTO
Patent Publication
MAR 11 2008

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,309,146

APPLICATION NO.: 11/100,136

ISSUE DATE : December 18, 2007

INVENTOR(S) : Keiji Hayashi et al.

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

ON THE PATENT FACE:

Under "[75] Inventors:" the following names should be deleted:

Akio Sotokawa, Kawasaki (JP)
Seiji Hachisuka, Kawasaki (JP)

RECEIVED-USPTO
Patent Publication
MAR 11 2008

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Patrick G. Burns
Greer, Burns & Crain, Ltd.
300 South Wacker Drive, Ste. 2500
Chicago, IL 60606

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED-USPTO
Patent Publication
MAR 2008

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,309,146

APPLICATION NO.: 11/100,136

ISSUE DATE : December 18, 2007

INVENTOR(S) : Keiji Hayashi et al.

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

ON THE PATENT FACE:

Under "[75] Inventors:" the following names should be deleted:

Akio Sotokawa, Kawasaki (JP)
Seiji Hachisuka, Kawasaki (JP)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Patrick G. Burns
Greer, Burns & Crain, Ltd.
300 South Wacker Drive, Ste. 2500
Chicago, IL 60606

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

MAR 11 2008

APPROVED: /SH/ (09/01/2009)

OIPE IAP10
MAR 07 2008
PATENT & TRADEMARK OFFICE

4319.72725

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keiji Hayashi
Serial No.:	11/100,136
Conf. No.:	1985
Filed:	4/6/2005
For:	BACKLIGHT HAVING DISCHARGE...
Art Unit:	2875
Examiner:	Husar, Stephen F.

I hereby certify that this paper is being deposited with the United States Postal Service as FIRST-CLASS mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date.

2/22/06
Date

F-CLASS.WCM
Appr. February 20, 1998

Registration No. 41,760
Attorney for Applicant(s)

COPY
FEB 23 2006

PETITION TO CHANGE INVENTORSHIP
PURSUANT TO 37 C.F.R. 1.48(b)

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

Dear Sir:

In the present Application, the inventors are as follows: Keiji HAYASHI, Tetsuya KOBAYASHI, Tetsuya HAMADA, Takeshi GOTOH, Toshihiro SUZUKI, Mari SUGAWARA, Akio SOTOKAWA, and Seiji HACHISUKA. In view of the Election of Species Requirement mailed January 24, 2006, Applicants request deletion of Akio SOTOKAWA and Seiji HACHISUKA, who are not inventors of the invention now being claimed.

MAR 11 2008

Applicants respectfully request this petition be granted and a change of inventors be made of record. Enclosed herewith is a check for $130.00 pursuant to 37 C.F.R. 1.17(i).

The Commissioner is hereby authorized to charge any additional fees which may be required to this Application under 37 C.F.R. 1.16-1.17, or credit any overpayment, to Deposit Account No. 07-2069. Should no proper payment be enclosed herewith, as by a check, being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 07-2069. A duplicate copy of this sheet is enclosed.

Should the Examiner be of the opinion that further clarification is necessary, the Examiner is invited to contact the undersigned attorney.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By Joseph P. Fox

Joseph P. Fox
Registration No. 41,760

February 22, 2006
300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
(312) 360-0080
Customer No. 24978

RECEIVED USPTO
Patent Publication
MAR 11 2008

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

CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

COPY MAILED

JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of
Lin et al.
Application No.11/100,143
Filed: April 5, 2005
Attorney Docket No. 54652/PCH/B600
Title of Invention: RADIO FREQUENCY VARIABLE GAIN AMPLIFIER WITH LINEARITY INSENSITIVE TO GAIN

DECISION GRANTING
PETITION UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed April 5, 2005.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 10/456,417 filed June 6, 2003, of which the instant filing is a continuation application. Furthermore, a copy of the decision, mailed October 27, 2003, granting a petition to accord § 1.47(a) status to the prior application has been obtained and placed in the file of the present application.

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

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

Pursuant to petitioner's request, deposit account 03-1728 will be charged the $200.00 petition fee.

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

William E. Pelton
Cooper & Dunham LLP
1185 Avenue of the Americas
New York NY 10036

COPY MAILED

JUL 19 2005

OFFICE OF PETITIONS

In re Application of :
Lennen :
Application No. 11/100,169 : ON PETITION
Filed: April 5, 2005 :
Attorney Docket No. 7284/60269-A :

This is a decision on the petition filed June 20, 2005, requesting that the above-identified application be accorded a filing date of April 5, 2005.

On April 5, 2005, applicants deposited the above-identified application. However, on May 11, 2005, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. In response, applicants filed the present petition, a second preliminary amendment, 33 pages of drawings, and paid the petition fee.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

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

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

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Nonprovisional Application" mailed May 11, 2005, was sent in error and is hereby withdrawn. The application will be accorded a filing date of April 5, 2005.

Accordingly, the petition is granted.

The $400.00 petition fee is unnecessary and will be credited to Deposit Account No. 03-3125.

The Office of Initial Patent Examination is directed to accord the application a filing date of April 5, 2005, with "0" sheets of drawings.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
PO BOX 1895, MS 641
NEW HOLLAND PA 17557

COPY MAILED

JUL 31 2006

OFFICE OF PETITIONS

In re Application of :
Priepke et al. :
Application No. 11/100,173 : DECISION ON PETITION
Filed: April 6, 2005 : TO WITHDRAW
Attorney Docket No. 17615 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, the attorney no longer represents the assignee, 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 April Wise at 571-272-1642.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/21/2010

Applicant	: Valery K. Smirnov	: DECISION ON REQUEST FOR
Patent Number	: 7604690	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,175	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/05/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **795** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

COPY MAILED

NOV 0 3 2008

OFFICE OF PETITIONS

In re Application of :
George C. Schedivy :
Application No.: 11/100,179 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No.: 8002A-103 :

This is a decision on the petition, filed October 31, 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 9, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 2621 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : November 17, 2009

TO SPE OF : ART UNIT 3732
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/100184 Patent No.: 72100927

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

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

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

Comments: _____

Cris L Rodriguez — **SPE**

3732 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

COPY MAILED

JUL 29 2008

OFFICE OF PETITIONS

In re Application of :
Changxue C. Ma, et. al. :
Application No. 11/100,185 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. CML02196HI :

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

The application became abandoned for failure to file a proper reply to the final Office action mailed on April 18, 2007.

The petition is **dismissed**.

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

The instant petition contains an S-signature of Daniel K. Nichols. However, while it appears that the S-Signature is from an attorney registered to practice before the Office, the registration number of the attorney is missing from the petition. Therefore, the petition and statement of unintentional delay cannot be accepted at this time.

The requirements for an S-signature under 37 CFR 1.4 (d)(2) are as follows:

> (i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./); and

(ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

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) is 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 35 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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

COPY MAILED

OCT 29 2008

OFFICE OF PETITIONS

In re Application of :
Changxue C. Ma, et. al. :
Application No. 11/100,185 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. CML02196HI :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 5, 2008, to revive the above-identified application.

As authorized, $810 for the Request for Continued Examination (RCE) fee under 37 CFR 1.114 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE with the $810 filing fee and an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on January 10, 2008.

This application is being referred to Technology Center Art Unit 2626 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

MAY 0 4 2007

OFFICE OF PETITIONS

In re Application of
Jonathan Lynch et al.
Application No. 11/100,200
Filed: April 5, 2005
Attorney Docket No.: **1547.036US1 (PD-04W179)**

ON PETITION

This is a decision on the petition filed April 9, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed July 5, 2006. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned October 6, 2006. Accordingly, a Notice of Abandonment was mailed on February 22, 2007.

This matter is being referred to Technology Center 2821 for appropriate action on the amendment filed April 9, 2007.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/24/09

Patent No. :7390335
Inventor(s) :Laurence C. Chow
Issued : 6/24/2008
Title : NANOSTRUCTURED BIOACTIVE MATERIALS PREPARED BY SPRAY DRYING TECHNIQUES
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 item [75], is printed in accordance with the record please show evidence of supporting data. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
CHICAGO,IL 60606

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ming Yat Kwok
1646 Frances St.
Vancouver BC V5L 1Z4
CANADA

COPY MAILED

OCT 17 2008

OFFICE OF PETITIONS

In re Application of :
Kwok :
Application No. 11/100,236 : ON PETITION
Filed: 04/06/2005 :
Title: COLLISION IMPACT FORCE :
MITIGATING DEVICE

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

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

The application became abandoned on January 2, 2008, for failure to file a proper and timely response to the final Office action mailed on October 1, 2007, which set a three (3) month shortened statutory period for reply. On November 20, 2007, petitioner submitted an amendment in response to the final Office action. On December 26, 2007, the examiner mailed an Advisory Action indicating that the amendment failed to place the application in condition for allowance. On January 25, 2008, petitioner filed an untimely and unsigned amendment. On June 9, 2008, the examiner mailed an Advisory Action indicating that the amendment failed to place the application in condition for allowance. On July 28, 2008, the Office mailed a Notice of Abandonment.

On August 27, 2008, petitioner filed an amendment in response to the final Office action of October 1, 2007. On August 28, 2008, petitioner submitted the present petition and the petition fee. The examiner has reviewed the amendment of August 27, 2008, and has determined that the amendment fails to place the application in condition for allowance. An Advisory Action accompanies this decision.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee 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 was unavoidable; and,

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

This petition lacks items (1) and (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail,

---

[1] 35 U.S.C. § 133.

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

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

Although the Office sympathizes with petitioner's hardships, the requirements of 37 CFR 1.137(a) are very exacting. Petitioner has failed to provide sufficient documentary evidence or a thorough explanation as to the exact circumstances that caused him to be unavoidably delayed from filing a timely and properly reply to the final Office action. Accordingly, petitioner has not made a sufficient 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 was unavoidable.

Additionally, petitioner has not submitted a proper reply to the final Office action to date. As previously stated, the examiner determined that the amendment filed August 27, 2008, is not a proper reply because it does not place the application in condition for allowance. A response to a final Office action may be entered if it presents an amendment that *prima facie* places the application in condition for allowance. However, the admission or refusal to admit any amendment after final, and any related proceedings, will not operate to relieve the application from its condition subject to appeal or save the application from abandonment under 37 CFR 1.135.[5] Further, the entry of an after-final amendment is not a matter of right, and it is incumbent upon an applicant to take steps to ensure against abandonment of an application.

In the present case, the file record reveals that petitioner did not take appropriate action to ensure that a proper response was timely filed so as to prevent the application from becoming abandoned. It is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment after a final Office action is filed. The Office notes that abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[6] This rule clearly indicates that the mere filing of an amendment does not save the application from abandonment. Only the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application guarantees the pendency of the application, not filing an amendment after final rejection. Thus, the application became abandoned due to petitioner's failure to file a Notice of Appeal, RCE and submission, a continuation application, or an amendment that placed the application in condition for allowance prior to the expiration of the time period for reply to the final Office action.

CONCLUSION

Petitioner has not provided a sufficient 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

---

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

[5] See 37 CFR 1.116.

[6] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

pursuant to 37 CFR 1.137(a) was unavoidable. Moreover, petitioner has not provided a proper reply to the outstanding final Office action. Accordingly, the petition is **dismissed**.

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

ALTERNATIVE VENUE

Petitioner may wish to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration. The appropriate form is enclosed with this decision.

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

(1) the reply required to the outstanding Office action or notice (e.g. a Notice of Appeal (and fee), a continuation application or a Request for Continued Examination (and fee) with a proper submission);

(2) the petition fee as set forth in 1.17(m) (currently an additional $810.00 for a small entity); and,

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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 should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Advisory Action Before the Filing of an Appeal Brief; Form for Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 11/100,236	**Applicant(s)** KWOK, MING YAT	
	Examiner Hilary Gutman	**Art Unit** 3612	

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

THE REPLY FILED 27 August 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 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: _____.

/Hilary Gutman/
Primary Examiner, Art Unit 3612

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	11/100,236	KWOK, MING YAT	
	Examiner	Art Unit	
	Hilary Gutman	3612	

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

The amendment document filed on *27 August 2008* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *amendments do not include markings*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

_____ _____

Legal Instruments Examiner (LIE), if applicable Telephone No.

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1.Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

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

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

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

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

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

WARNING:

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

_____ _____
Signature Date

_____ _____
Typed or printed name Registration Number, if applicable

_____ _____
Address Telephone Number

_____
Address

Enclosures: ☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

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

_____ _____
Date Signature

_____
Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ming Yat Kwok
1646 Frances St.
Vancouver BC V5L 1Z4
CANADA

COPY MAILED

JUL 07 2009

OFFICE OF PETITIONS

In re Application of
Kwok
Application No. 11/100,236
Filed: 04/06/2005
Title: COLLISION IMPACT FORCE MITIGATING DEVICE

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a), filed on December 16, 2008, to revive the above-identified application.

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

The application became abandoned on January 2, 2008, for failure to file a proper and timely response to the final Office action mailed on October 1, 2007, which set a three (3) month shortened statutory period for reply. On November 20, 2007, petitioner submitted an amendment in response to the final Office action. On December 26, 2007, the examiner mailed an Advisory Action indicating that the amendment failed to place the application in condition for allowance. On January 25, 2008, petitioner filed an untimely and unsigned amendment. On June 9, 2008, the examiner mailed an Advisory Action indicating that the amendment failed to place the application in condition for allowance. On July 28, 2008, the Office mailed a Notice of Abandonment.

On August 27, 2008, petitioner filed an amendment in response to the final Office action of October 1, 2007. On August 28, 2008, petitioner submitted the initial petition and the petition fee. The examiner reviewed the amendment of August 27, 2008, and determined that the amendment failed to place the application in condition for allowance. The decision dismissing the petition, accompanied by an Advisory Action, was mailed on October 17, 2008.

On December 16, 2008, petitioner filed the present renewed petition and an unsigned amendment in response to the final Office action.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee 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 was unavoidable; and,

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

This petition lacks items (1) and (3) above.

The Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to be "unavoidable".[1] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[2]

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[3] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail,

---

[1] 35 U.S.C. 133.

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

[3] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[4]

Although the Office sympathizes with petitioner's hardships, the showing required under 37 CFR 1.137(a) is very exacting. It appears that the shared responsibility for caring for petitioner's aunt and his difficulties with the immigration process took precedence over prosecuting the application. Such a delay is not "unavoidable" within the meaning of 37 CFR 1.137(a). It is certainly understandable how caring for a family member, as well as undertaking the complicated immigration process to bring one's family from China to Canada impacted petitioner. However, the delay in taking action in this application constitutes a preoccupation with other matters, which does not form the basis of unavoidable delay.[5]

Additionally, petitioner has not submitted a proper reply to the final Office action to date. Initially, the Office notes that petitioner did not sign the amendment submitted on December 16, 2008. Pursuant to 37 CFR 1.33(b), amendments and other papers filed in an application must be signed by the applicant(s), a patent practitioner or an assignee. Moreover, the examiner determined that the response filed December 16, 2008, is not a proper amendment because the newly amended claims submitted are not a modified version of the claim set filed before the final Office action. The Office reminds petitioner that delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute "unavoidable" delay.[6]

CONCLUSION

Petitioner has not provided a sufficient 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. Furthermore, petitioner has not provided a proper reply to the outstanding final Office action. Accordingly, the petition is **dismissed**.

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

ALTERNATIVE VENUE

Petitioner may wish to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration. "Petitions under 37 CFR 1.137(b) are less burdensome (statement(s) rather than a showing accompanied by documentary evidence) to file and are evaluated under the less stringent 'unintentional delay' standard." MPEP 711/03(c)(II)(C). The appropriate form for filing a petition under 37 CFR 1.137(b) is enclosed with this decision.

---

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

[5] See Smith v. Mossinghoff, 671 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[6] 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).

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

(1) the reply required to the outstanding Office action or notice;

(2) the petition fee as set forth in 1.17(m) (currently an additional $810.00 for a small entity); and,

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Correspondence may also be submitted electronically via EFS-Web.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form for Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ming Yat Kwok
1646 Frances St.
Vancouver BC V5L 1Z4
CANADA

MAILED

JAN 28 2010

OFFICE OF PETITIONS

In re Application of
Kwok
Application No. 11/100,236
Filed: 04/06/2005
Title: COLLISION IMPACT FORCE MITIGATING DEVICE

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2009, to revive the above-identified application.

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

The application became abandoned on January 2, 2008, for failure to file a proper and timely response to the final Office action mailed on October 1, 2007, which set a three (3) month shortened statutory period for reply. On November 20, 2007, petitioner submitted an amendment in response to the final Office action. On December 26, 2007, the examiner mailed an Advisory Action indicating that the amendment failed to place the application in condition for allowance. On January 25, 2008, petitioner filed an untimely and unsigned amendment. On June 9, 2008, the examiner mailed an Advisory Action indicating that the amendment failed to place the application in condition for allowance. On July 28, 2008, the Office mailed a Notice of Abandonment. On August 27, 2008, petitioner filed an amendment in response to the final Office action of October 1, 2007. On August 28, 2008, petitioner submitted a petition under 37 CFR 1.137(a) and the petition fee. The examiner reviewed the amendment of August 27, 2008, and determined that the amendment failed to place the application in condition for allowance. The decision dismissing the petition, accompanied by an Advisory Action, was mailed on October 17, 2008. On December 16, 2008, petitioner filed a renewed petition under 37 CFR 1.137(a) and an unsigned amendment in response to the final Office action. The examiner determined that the response filed December 16, 2008, was not a proper amendment because the newly amended claims submitted were not a modified version of the claim set filed before the final Office action. The decision dismissing the renewed petition, accompanied by an Advisory Action, was mailed on July 7, 2009. On August 28, 2009, petitioner filed the present petition under 37 CFR 1.137(b).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

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

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

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

The present petition does not satisfy requirement (1) above.

On August 28, 2009, petitioner submitted an amendment in response to the final Office action; however, the examiner considered amendment non-compliant. A Notice of Non-Compliant Amendment accompanies this decision. Accordingly, petitioner has failed to submit a proper reply to the final Office action with the present petition.

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

As the reply submitted on petition is considered non-compliant, petitioner has not met the requirements under 37 CFR 1.137(b) to revive the application at this time. Accordingly, the petition is dismissed and the application remains abandoned.

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 under 37 CFR 1.137(b)." Extensions of this time period are available under 37 CFR 1.136(a). No additional fee is required for filing a renewed petition. With any renewed petition under 37 CFR 1.137(b), petitioner must submit a proper reply to the outstanding final Office action as 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 FAX: (571) 273-8300
Attn: Office of Petitions

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

Correspondence may also be submitted via the electronic filing system of the USPTO.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Notice of Non-Compliant Amendment (37 CFR 1.121)

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	11/100,236	KWOK, MING YAT	
	Examiner	Art Unit	
	Hilary Gutman	3612	

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

The amendment document filed on *28 August 2009* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Hilary Gutman/ Primary Examiner, Art Unit 3612	

Continuation of 4(e) Other: the amendments do not show all the marking and changes to the previously submitted claim set of 6/13/07.

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	11/100,236	KWOK, MING YAT	
	Examiner	Art Unit	
	Hilary Gutman	3612	

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

The amendment document filed on *28 August 2009* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other _____.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: *See Continuation Sheet*.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

_____

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

   Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

   Failure to timely respond to this notice will result in:
   Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or
   Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Hilary Gutman/ Primary Examiner, Art Unit 3612	

Continuation of 4(e) Other: the amendments do not show all the marking and changes to the previously submitted claim set of 6/13/07.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Aug-07

AMGEN INC.
U.S. PATENT OPERATIONS/RVP
DEPT. 4300, M/S 27-4-A
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

COPY MAILED

AUG 14 2007

OFFICE OF PETITIONS

In re Application of	:	
Bo et al.	:	
Application No. 11/100272	:	ON PETITION
Filed: 04/05/2005	:	
Attorney Docket No. A-689C	:	

This is a decision in reference to the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE ACTION MPEP 711.03(c)II," filed on 1 June, 2007.

The petition is **GRANTED**.

This application became abandoned on 3 February, 2007, for failure to submit a timely response to the final Office action mailed on 2 November, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 7 June, 2007.

Petitioners assert that the final Office action mailed on 2 November, 2006, was never received.

In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the 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 communication 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 Office communication may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

A review of the record indicates that the final Office action was properly mailed to the petitioners 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 petitioners have submitted a statement by the practitioner that a search of the file jacket and docket records indicates that the final Office action mailed on 2 November, 2006, was not received. A copy of petitioner's docket records and mail log is included with the petition and referenced therein.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

No fee is required for a petition under 37 CFR 1.181. The fee paid with the petition will be credited to counsel's deposit account.

The application file is being referred to Technology Center Art Unit 1624 for remailing of the final Office action mailed on 2 November, 2006. The period for reply will be reset from the mailing date thereof.

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

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 11 2009

OFFICE OF PETITIONS

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

In re Patent No. 7,507,557	:	
Goodard, et al.	:	DECISION DISMISSING
Application No. 11/100,289	:	REQUEST FOR
Issue Date: March 24, 2009	:	RECONSIDERATION OF
Filed: April 5, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
39780-2730 P1C71C1	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b), filed April 8, 2009, which is properly treated pursuant to 37 CFR § 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from three hundred sixty-nine (369) days to seven hundred twenty-two (722) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 369 days.

BACKGROUND

This application was filed on April 5, 2005. On March 24, 2009, the application matured into U.S. Patent No. 7,507,557, with a revised patent term adjustment of 369 days. The Office determined that the 353 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1,2] overlaps with the 458

[1] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this

days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[3,4] accorded prior to the issuance of the patent. As such, the Office allowed only entry of the adjustment of 458 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 89 days, the patent issued with a revised patent term adjustment of 369 (458 - 89) days.

On April 8, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 722 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 811 (458 + 353) days as these periods do not occur on the same day. Further, given the applicant delay of 89 days, patentees assert entitlement to 722 (811 - 89) days of patent term adjustment.

---

subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[2] The application was pending three years and 353 days.

[3] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
>
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[4] A first Office action was not mailed until September 6, 2007, fourteen months and 458 days after the application filing date, April 5, 2005.

OPINION

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[5] *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

---

[5] Likewise, 37 CFR 1.703(f) provides that:

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

§ 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), April 5, 2005, and ending on the date the patent issued, March 24, 2009, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 458 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 353 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 353 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 458 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 458 days and the 353 days is neither permitted nor warranted. 458 days is the actual number of days issuance of the patent was delayed.

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

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 369 days (458 days of Office delay - 89 days of applicant delay).

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

COPY MAILED

SEP 1 4 2005

OFFICE OF PETITIONS

In re Application of :
Thomas C. Kienzle, III :
Application No. 11/100,298 : ON PETITION
Filed: April 6, 2005 :
Attorney Docket No. 151242NV(15963US01) :

This is a decision on the petition filed May 25, 2005, requesting that the above-identified application be accorded a filing date of April 6, 2005.

On April 6, 2005, applicant deposited the above-identified application. However, on May 3, 2005, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Nonprovisional Application," requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. Additionally, the Notice required applicant to submit an executed declaration in compliance with 37 CFR 1.63. In response, on May 25, 2005, applicant filed the present petition, five sheets of drawings and an executed declaration.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

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

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

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Nonprovisional Application" mailed May 3, 2005, was sent in error and is hereby withdrawn. The application will be accorded a filing date of April 6, 2005.

Accordingly, the petition is granted.

Applicant may file an amendment with the examiner prior to the first action on the merits requesting entry of the drawings. New matter is a determination for the examiner.

The Office of Initial Patent Examination is directed to accord the application a filing date of April 6, 2005, with "0" sheets of drawings. The five sheets of drawings submitted with the petition will not be entered at this time.

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

COPY MAILED

DEC 28 2006

OFFICE OF PETITIONS

In re Application of :
Iyad Qumei :
Application No. 11/100,305 : DECISION ON PETITION
Filed: 04/06/2005 :
Attorney Docket No. 16400US02 :

This is a decision on the petition, filed June 15, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 10, 2006. Nevertheless, 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 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 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of April 5, 2007, accompanies this decision on petition.

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

This matter is being referred to Technology Center Art Unit 2191 for examination in due course.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/100,305	04/06/2005	Iyad Qumei	16400US02

CONFIRMATION NO. 2663

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 12/28/2006

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 04/05/2007.

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
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

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

Mail Date: 04/20/2010

Applicant	: Andrew Karonis	: DECISION ON REQUEST FOR
Patent Number	: 7584123	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1105** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of :
Guy McClung, III :
Application No. 11/100,343 : ON APPLICATION FOR
Filed: April 6, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-3735

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705", which properly treated under 37 CFR 1.705(b), filed March 25, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred and sixty-one (1,461) days, not nine hundred and eighty (980) 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].

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).

---

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

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

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

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 13 2008

GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK NJ 07102

In re Application of :
Anderson, et al. :
Application No. 11/100,346 : DECISION
Filed: 6 April, 2005 :
Attorney Docket No. 105479-58460 (644-065) :

This is a decision on the petitions filed, respectively, on 18 September, 2006, and in light of the allegations considered by the Office of Initial Patent Examination (OIPE) as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and, on 13 November, 2007, in the alternative, under 37 C.F.R. §1.137(b) to revive the application as abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition as considered under 37 C.F.R. §1.181 is **DISMISSED** the petition under 37 C.F.R. §1.137(b) 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" and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

BACKGROUND

The record reflects that:

- first Petitioner (former Counsel) failed to reply timely and properly to the Notice to File Missing Parts (fees, oath/declaration and surcharge) action mailed (a second time) on 28 July, 2005, with reply due on or before 28 September, 2005;

- the application went abandoned after midnight 28 September, 2005;

- the Office mailed the Notice of Abandonment on 31 March, 2006;

- on 17 April, 2006, first Petitioner filed, *inter alia*, a change of address, and, contemporaneously, the Notice of Abandonment was returned as undelivered;

- on 29 August, 2006, first Petitioner filed a second change of address, a submission averred to have correlated the instant application with first Petitioner's Customer Number;

- on 18 September, 2006, first Petitioner filed, inter alia, what was averred to have been a "petition to revive," and stated therein the basis of the delay to be "unavoidable," however, first Petitioner also averred that the delay in filing was "due to the error of the United States Post Office and no fee is required"—thus OIPE appears to have considered the petition as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, however, Petitioner not only delayed a year after abandonment and nearly sxi months after the Notice of Abandonment to file, and (particularly in light of the three failed postal deliveries despite correct addressing by the Office) Petitioner made none of the documentary showings in support of the averments as set forth in the guidance in the Commentary at MPEP §711.03(c)(I)(A) and (B);

- on 12 February, 2007, second Petitioner (current Counsel: Petitioner) a Revocation/Power of Attorney (with a certificate under 37 C.F.R. §3.73(b);

- on 13 November, 2007, Petitioner filed, *inter alia*, the petition to revive under 37 C.F.R. §1.137(b), filed a reply in the form of the oath/declaration (however the fee authorization appears to have been only partially transmitted by Petitioner's FAX and it is unclear at this writing what fees (to include or not basic and associated filing fees and surcharge, as well as the petition fee) were authorized to be charged to Petitioner's Deposit Account, and Petitioner alleged unintentional delay, however, Petition clearly was not of record and apparently was not in a position to be aware of the nature of the delay and has expressed neither firsthand knowledge of the facts nor an averment that Petitioner has made the requisite inquiry and determined to his satisfaction that the nature of the delay was an unintentional delay—nor has Petitioner had the Assignee sign the petition and so attest to the unintentional nature of the delay;

The regulations at 37 C.F.R. §1.181(f) indicate that "[a]ny 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."

Notably, Petitioner's contemporaneous filing of the petition under 37 C.F.R. §1.137(b) with that under 37 C.F.R. §1.181 appears to acknowledge or otherwise appreciate the failure to have filed timely (i.e., within two months of the act complained of (the Notice of Abandonment)), as set forth in 37 C.F.R. §1.181(f), the petition to withdraw the holding of abandonment.

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.

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]

---

[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.

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.

As noted above and particularly in light of the fact that three consecutive mailings seem not to have been delivered to Petitioner although those mailings were properly addressed by the Office, Petitioner appears to have failed to have made the required submission of documentary evidence in support of the petition, and Petitioner also appears not to have filed timely under the regulation.

As to Allegations
of Unintentional Delay

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

---

[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).

It appears that Petitioner has not satisfied the regulatory requirements in that the sufficiency of the reply in the form of fees and the fee for the petition and showing/statement of unintentional delay appear insufficient, as described in the BACKGROUND, above.

CONCLUSION

Petitioner appears to have failed to satisfy the burdens such that the petition to withdraw the holding of abandonment as considered under 37 C.F.R. §1.181 is **dismissed**; the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

By mail: 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

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

COPY MAILED

DEC 0 1 2008

OFFICE OF PETITIONS

GIBBONS P.C.
ONE GATEWAY CENTER
NEWARK NJ 07102

In re Application of :
Anderson, et al. :
Application No. 11/100,346 : DECISION
Filed: 6 April, 2005 :
Attorney Docket No. 105479-58460 (644-065) :

This is a decision on the petition, filed on 8 May, 2008, considered as a petition 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:

First Petitioner (former Counsel) failed to reply timely and properly to the Notice to File Missing Parts (fees, oath/declaration and surcharge) action mailed (a second time) on 28 July, 2005, with reply due absent extension of time on or before 28 September, 2005.

The application went abandoned after midnight 28 September, 2005.

The Office mailed the Notice of Abandonment on 31 March, 2006.

On 17 April, 2006, first Petitioner filed, *inter alia*, a change of address, and, contemporaneously, the Notice of Abandonment was returned as undelivered.

On 29 August, 2006, first Petitioner filed a second change of address, a submission averred to have correlated the instant application with first Petitioner's Customer Number.

On 18 September, 2006, first Petitioner filed, *inter alia*, what was averred to have been a "petition to revive," and stated therein the basis of the delay to be "unavoidable," however, first Petitioner also averred that the delay in filing was "due to the error of the United States Post Office and no fee is required"—thus OIPE appears to have considered the petition as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, however, Petitioner not only delayed a year after abandonment and nearly six months after the Notice of Abandonment to file, and (particularly in light of the three failed postal deliveries despite correct addressing by the Office) Petitioner made none of the documentary showings in support of the averments as set forth in the guidance in the Commentary at MPEP §711.03(c)(I)(A) and (B).

On 12 February, 2007, second Petitioner (current Counsel: Petitioner) a Revocation/Power of Attorney (with a certificate under 37 C.F.R. §3.73(b).

On 13 November, 2007, Petitioner filed, *inter alia*, the petition to revive under 37 C.F.R. §1.137(b), filed a reply in the form of the oath/declaration (however the fee authorization appears to have been only partially transmitted by Petitioner's FAX and it is unclear at this writing what fees (to include or not basic and associated filing fees and surcharge, as well as the petition fee) were authorized to be charged to Petitioner's Deposit Account, and Petitioner alleged unintentional delay, however, Petition clearly was not of record and apparently was not in a position to be aware of the nature of the delay and has expressed neither firsthand knowledge of the facts nor an averment that Petitioner has made the requisite inquiry and determined to his satisfaction that the nature of the delay was an unintentional delay—nor has Petitioner had the Assignee sign the petition and so attest to the unintentional nature of the delay. The regulations at 37 C.F.R. §1.181(f) indicate that "[a]ny 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." Notably, Petitioner's contemporaneous filing of the petition under 37 C.F.R. §1.137(b) with that under 37 C.F.R. §1.181 appears to acknowledge or otherwise appreciate the failure to have filed timely (i.e., within two months of the act complained of (the Notice of Abandonment)), as set forth in 37 C.F.R. §1.181(f), the petition to withdraw the holding of abandonment. Thus, the petition was dismissed on 13 March, 2008.

On 8 May, 2008, the instant petition with fee authorization was filed with statements by Preston Granbery, General Counsel for the averred assignee and former Counsel David M. Hill (Reg. No. 46,170) as to the nature of the delay herein. The reply in the form of the oath/declaration having formerly been filed and in the form of fees due authorized herein (and now charged to Deposit Account 03-3839).

The record (including the petitions filed on 18 September, 2006, and 13 November, 2007, and then on 8 May, 2008) does not necessitate a finding that the delay between midnight 28 September, 2005 (the date of abandonment), and 8 May, 2008 (the date of filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Preston Granbery and Petitioners/Counsel David M. Hill (Reg. No. 46,170) and Andrew M. Grodin (Reg. No. 50,728) when accepting Petitioners' representation that the delay in filing the response was unintentional.[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.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the OPAP in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

---

[1] *See:* Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[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).

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[3] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

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

Mail Date: 04/21/2010

Applicant	: David J. Stumpo	: DECISION ON REQUEST FOR
Patent Number	: 7628794	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,349	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1159** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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	: Charles Cummins	: DECISION ON REQUEST FOR
Patent Number	: 7613957	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,351	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **688** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Chiron Corporation
Intellectual Property - R440
P.O. Box 8097
Emeryville, CA 94662-8097

COPY MAILED

NOV 0 8 2005

OFFICE OF PETITIONS

In re Application of :
Zur, et al. :
Application No. 11/100,356 :
Filed: April 6, 2005 :
Attorney Docket No. PP18370.013 :

DECISION GRANTING PETITION

This is a decision on the petition filed October 28, 2005, to vacate the language in the "Notice of Omitted Items" (the "Notice") relative to the allegedly omitted item.

The petition is **granted**.

On April 6, 2005, the above-identified application was filed. However, on October 3, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of April 6, 2005, and advising applicant that page 33 of the specification appeared to have been omitted. The Notice set a non-extendable period for reply two-months from its mailing date.

In response, on October 28, 2005, applicant filed the present petition, a copy of page 33 of the specification, and an Office date-stamped postcard receipt acknowledging receipt of 33 pages of the specification, among other items.

Upon review of the record, page 33 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited April 6, 2005, included page 33 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including page 33 of the specification, was complete on filing and entitled to the presently accorded filing date of April 6, 2005, with page 33 of the specification as part of the original disclosure.

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

The application file is being directed to the Office of Initial Patent Examination for further processing with the presently accorded filing date of April 6, 2005, using the papers filed on that date.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

COPY MAILED

OCT 26 2007

OFFICE OF PETITIONS

In re Application of :
Irving A. **Gibbs** et al. :
Application No. 11/100,368 : DECISION ON PETITION
Filed: April 06, 2005 :
Attorney Docket No. 66019-69015 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 27, 2006. Accordingly, the date of abandonment of this application is December 28, 2006.

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

With respect to item (3), the statement under 37 CFR 1.137(b)(3) signed by Ken Parker, Vice President of Finance for Basler Electric Company (Balser), is not acceptable. According to Office records, it is not apparent whether Mr. Parker was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. The Office focuses on the party having the right or authority to reply to avoid abandonment (or not reply) in determining whether the delay was unintentional. See MPEP 711.03(c)(II)(E). In the instant case, the application became abandoned on December 28, 2006. Office records show that Eaton Corporation (Eaton) remained the owner of the above-identified application on December 28, 2006 and that the execution of the assignment between Eaton and Basler did not occurred until August 20, 2007. Before the Office can determine whether the entire delay was unintentional, petitioner must supply a statement under 37 CFR 1.137(b)(3) from an individual at Eaton or an individual having the right or authority to reply to avoid abandonment as set forth in MPEP 711.03(c)(II)(E).

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) 272-2783.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

COPY MAILED

MAR 21 2008

OFFICE OF PETITIONS

In re Application of :
Irving A. GIBBS et al. :
Application No. 11/100,368 : DECISION ON PETITION
Filed: April 06, 2005 :
Attorney Docket No. **66019-69015** :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed November 07, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 27, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 27, 2006. Accordingly, the date of abandonment of this application is December 28, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; 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 Publishing Division for processing into a patent.

David Bucci
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

KENNETH L. SHERMAN
MYERS DAWES ANDRAS & SHERMAN
STE. 1150
19900 MACARTHUR BLVD
IRVINE, CA 92612

COPY MAILED
NOV 16 2005
OFFICE OF PETITIONS

In re Application of	:	
Zhi Zhou et al	:	DECISION ON
Application No. 11/100,369	:	PETITION
Filed: April 5, 2005	:	
Attorney Docket No. SAM2.PAU.46	:	

This is a decision on the petition under 37 CFR 1.10(d), filed August 1, 2005, requesting that the above-identified application be accorded a filing date of April 5, 2005, rather than the presently accorded filing date of April 7, 2005.

Applicants allege that the application was deposited in Express Mail service on April 5, 2005 and requests that the application be accorded a filing date of April 5, 2005. A review of the official record discloses that the corrected filing date was already given as shown by its inclusion on the filing receipt mailed October 4, 2005. Therefore, no change in the official filing date is required.

The petition is dismissed as moot. The $400 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

This matter is being referred to Technology Center AU 2634 for examination in due course.

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

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
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.
11/100,393	04/07/2005	Yoshinori Marumo	270391US26CIP	9370

7590 04/22/2008

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

EXAMINER	
BAREFORD, KATHERINE A	

ART UNIT	PAPER NUMBER
1792	

NOTIFICATION DATE	DELIVERY MODE
04/22/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

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

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

Patent Publication Branch
Office of Data Management

Adjustment date: 04/23/2008 DTERRY
04/08/2005 HLE333 00000005 11100393
02 FC:1111 -500.00 DP
04 FC:1201 -600.00 DP
05 FC:1202 -300.00 DP

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

LEON R TURKEVICH
2000 M STREET NW
7TH FLOOR
WASHINGTON, DC 200363307

Mail Date: 06/25/2010

Applicant	: Patrick Wetterwald	: DECISION ON REQUEST FOR
Patent Number	: 7639686	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/100,400	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **896** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Harbin King & Klima
500 Ninth Street SE
Washington DC 20003

COPY MAILED

SEP 25 2008

OFFICE OF PETITIONS

In re Application of
Negulescu, et al.
Application No. 11/100,404
Filed: April 7, 20025
Attorney Docket No. 2560-0460

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed July 15, 2008, to revive the above-identified application.

This application became abandoned for failure to timely pay the publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed January 9, 2008. Accordingly, this application became abandoned on April 10, 2008. A Notice of Abandonment was mailed on May 15, 2008.

Applicants have submitted a proper reply in the form of the $300.00 publication fee, an acceptable statement of the unintentional nature of the delay in responding to the January 9, 2008 Notice of Allowance and Fee(s) Due, and the $1,540.00 petition fee.

The petition is **granted**.

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.

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
Senior Petitions Attorney
Office of Petitions

CC: TIMOTHY J. KLIMA
1745 KALORAMA ROAD, NW
SUITE 101
WASHINGTON, D.C. 20009

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

L. LAWTON ROGERS, III
3260 LUVAN BOULEVARD
GEORGETOWN SC 29440

COPY MAILED

OCT 21 2008

OFFICE OF PETITIONS

In re Application of :
Daniel E. Little :
Application No. 11/100,405 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No.: LIT01 001 :

This is a decision on the petition filed August 25, 2008 to withdraw the holding of abandonment for the above-identified application. The petition is being treated under 37 CFR 1.181.

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

The application was held abandoned on July 22, 2008, for failure to timely submit the issue fee, as required by the Notice of Allowance and Issue Fee Due mailed on April 21, 2008. A three (3) month period for reply was set. Accordingly, a Notice of Abandonment was mailed on August 15, 2008.

Petitioner asserts that the issue fee transmittal and a check in the amount of $1050 were mailed April 27, 2008.

In support, petitioner has submitted, *inter alia*, a copy of the issue fee transmittal form with the certificate of mail dated April 27, 2008 and a substitute check in the amount of $1050 for payment of the issue fee, publication fee and for advanced copies.

A search of the application file and the USPTO records does not reveal receipt of the issue fee transmittal but, the petition complies with the requirements set forth in 37 CFR 1.8(b).

Accordingly, the Notice of Abandonment mailed on September 6, 2005, is hereby withdrawn. No petition fee is necessary and none has been charged.

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

MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

COPY MAILED

JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Sasaki et al. :
Application No. 11/100,432 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 041501-5515-01 :

This is a decision on the petition filed June 13, 2005, requesting that the application be accorded a filing date of April 7, 2005, with page 56 of the specification as part of the original disclosure.

On April 7, 2005, applicants filed the above-identified application. However, on May 11, 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 April 7, 2005, and advising applicants that page 56 of the specification appeared to have been omitted.

In response, on June 13, 2005, applicants submitted the present petition, page 56 of the specification, and an authorization to charge the Deposit Account for the petition fee. Additionally, applicants submitted a copy of applicants' returned, date-stamped postcard receipt, acknowledging receipt of 66 pages of specification in the USPTO on April 7, 2005.

Upon review of the record, page 56 of the specification, deposited on April 7, 2005, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 7, 2005, included page 56 of the specification, which was subsequently misplaced in the USPTO. Therefore, the application, including page 56 of the specification, was complete on filing and will be granted a filing date of April 7, 2005.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. Accordingly, no petition fee is necessary.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of April 7, 2005,** using pages 1-55, and 57-66 of the specification submitted on that date, and page 56 of the specification submitted on June 13, 2005, as part of the original disclosure.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

MAR 2 4 2008

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

In re Application of :
Luo :
Application No. 11/100,448 : DECISION
Filed: 7 April, 2005 :
Attorney Docket No.: FP10813 :

This is a decision on the papers considered as a petition filed on 19 February, 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 Requirement for Restriction mailed on 20 June, 2007, with reply due absent an extension of time on or before 20 July, 2007;
- the application went abandoned after midnight 20 July, 2007;
- the Office mailed the Notice of Abandonment on 24 January, 2008;

- on 19 February, 2008, Petitioner filed the instant petition with, *inter alia*, an averment of timely reply in the form of an Election and provided a copy of the Election that is averred to have been submitted via FAX on 13 July, 2007, however, Petitioner provides not a FAX-back receipt acknowledgement on Office letterhead, (in lieu of a date-stamped receipt card) but only a transmittal confirmation from Petitioner's own FAX machine, and as of this writing the showing is not complete consistent with the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively):

> ***
>
> 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.
>
> ***

Should Petitioner chose to re-assert the instant petition, Petitioner is encouraged to provide a copy of the docket recording the transmission and a statement discussing same and incorporating that record.

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]

---

[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.

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.[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 provides not a FAX-back receipt acknowledgement on Office letterhead, (in lieu of a date-stamped receipt card) but only a transmittal confirmation from Petitioner's own FAX machine, and as of this writing the showing is not complete consistent with the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B) (as to non-receipt or timely filing, respectively).

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] 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

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

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

COPY MAILED

NOV 17 2008

OFFICE OF PETITIONS

In re Application of :
Luo :
Application No. 11/100,448 : DECISION
Filed: 7 April, 2005 :
Attorney Docket No.: FP10813 :

This is a decision on the petition filed on 30 April, 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 Requirement for Restriction mailed on 20 June, 2007, with reply due absent an extension of time on or before 20 July, 2007;
- the application went abandoned after midnight 20 July, 2007;
- the Office mailed the Notice of Abandonment on 24 January, 2008;
- on 19 February, 2008, Petitioner filed the original petition seeking withdrawal of the holding of abandonment under 37 C.F.R. §1.181 with, *inter alia*, an averment of timely

reply in the form of an Election and provided a copy of the Election that is averred to have been submitted via FAX on 13 July, 2007, however, Petitioner provides not a FAX-back receipt acknowledgement on Office letterhead, (in lieu of a date-stamped receipt card) but only a transmittal confirmation from Petitioner's own FAX machine, and as of this writing the showing is not complete consistent with the showing requirements set forth in the guidance of the Commentary at MPEP §711.03(c)(I)(A) and (B)—and the petition was dismissed on 24 March, 2008.

- On 30 April, 2008, Petitioner filed the instant petition with fee, a reply in the form of an election and made the statement of unintentional delay.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to Technology Center/AU 3761 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 Technology Center/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to Technology Center/AU where that change of status must be effected—that does not occur in the Office of Petitions.

---

[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).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

LEONG C LEI
PMB # 1008
1867 YGNACIO VALLEY ROAD
WALNUT CREEK CA 94598

COPY MAILED

MAY 0 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Ho-Ching Yang	:	
Application No. 11/100,495	:	ON PETITION
Filed: April 7, 2005	:	
Attorney Docket No. FP10827	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before September 7, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 8, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue and publication fees; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

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

The application file is being referred to the Office of Publications for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20001-4413

MAILED

MAR 13 2007

Technology Center 2100

In re Application of: Roman A. RAPP.
Application No. 11/100,515
Filed: April 7, 2005
For: METHODS AND SYSTEMS FOR ENTERING OBJECT ASSIGNMENTS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed August 24, 2006 under 37 C.F.R. § 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination for the subject Application.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

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

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

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

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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.

The petition filed August 24, 2006 fails to adequately meet requirement (e) as set forth above. The petition for accelerated examination must include a discussion of each reference deemed most closely related to the subject matter encompassed by the claims. In order to comply with regulations, Petitioners must present a detailed discussion of each reference deemed most closely related to the subject matter of the invention claimed. Petitioner's statement on page 2 of the petition that, "Claims 1-11 of the subject application are **similar in scope** to claims 1-11 of the EP application. Further, claims 16-20 of the subject application are **similar in scope** to claims 13-17 of the EP application. Claims 12-15 and claims 21-23 of the present application are **similar in scope** to claims 11, 12, and 17 of the EP application, the claims being reformatted from multiple dependent form.", is not sufficiently detailed, as is required. The discussion must positively state what each claim recites and compare the limitations of each claim to the reference or references with the particularity required by 37 CFR 1.111 (b) and (c). The discussion should cite what each particular independent claim recites rather than indicating that claims are **"similar in scope"**.

The petition has failed to provide the necessary detailed discussion of the references related to the claimed invention.

Accordingly, the Petition to Make Special is **DISMISSED** since all of the requirements for special status under MPEP § 708.02(VIII) have **NOT** been met.

Any requests for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Pat Salce

Pat Salce
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3610

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.
11/100,515	04/07/2005	Roman A. Rapp	07781.0242-00	2765

22852 7590 07/24/2008

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

EXAMINER	
HUR, ECE	

ART UNIT	PAPER NUMBER
2175	

MAIL DATE	DELIVERY MODE
07/24/2008	PAPER

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

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

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

Bradley Edelman
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER LLP
901 New York Avenue, NW
Washington DC 20001-4413

In re Application of:
Roman A. RAPP
Application No.: 11/100,515
Filed: April 7, 2005
For: METHODS AND SYSTEMS FOR ENTERING OBJECT ASSIGNMENTS

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 13 May 2008, to expunge information submitted pursuant to MPEP § 724.05.

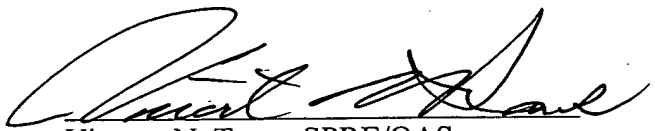
The petition is **DISMISSED**.

Petitioner requests that the documents entitled "White Paper: Oros Bridge 5.0 with SAP: Interfacing ABC Information", "Technical Paper: Building Oros and SAP R/3 Compatible Models in Detail" and "Linking SAP's SEM-BPS with ABC Technologies OROS, Specification" submitted on 13 May 2008 be expunged from the record if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on 22 January 2008 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.



Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HARNESS DICKEY & PIERCE PLC
PO BOX 8910
RESTON VA 20195

COPY MAILED

JUL 15 2005

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 11/100,526 : DECISION ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 2557-000300/US :

This is a decision on the "PETITION UNDER 37 CFR § 1.182", filed May 17, 2005, requesting, in effect, that the above-identified application be accorded a filing date of April 7, 2005, with Figures 3d-3g of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on April 7, 2005. However, on May 4, 2005, the Office mailed a "Notice of Omitted Item(s) in a Nonprovisional Application", stating that the application had been accorded a filing date of April 7, 2005; however, Figures 3d-3g of the drawings as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner does not argue that Figures 3d-3g were included with the application papers as filed. However, petitioner states that the drawings were filed with Korean application 10-2004-0070782, which was incorporated by reference.

Figures not present on the filing date cannot be considered a part of the original disclosure of the application. As Figures 3d-3g were not present in the Office on April 7, 2005, the application can not be accorded the April 7, 2005 filing date with the drawings of Figures 3d-3g as a part of the original disclosure.

Accordingly, the Notice mailed on May 4, 2005, was correct in stating that Figures 3d-3g of the drawings appeared to have been omitted. Therefore, the requirement for the omitted figures of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the first line of the specification included an incorporation by reference statement.

MPEP § 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference statement to prior filed application, the drawings of Figures 3d-3g are not new matter if they were a part of the disclosure of the prior application.

The $400 petition fee will not be refunded because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed April 7, 2005, and for indication in Office records that seven (7) sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

AUG 18 2006

OFFICE OF PETITIONS

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

In re Application of :
Hidetoshi Kusumi et al :
Application No. 11/100,564 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 00960/178 :

This is a decision on the petition, filed August 11, 2006, and supplemented on August 17, 2006 and August 18, 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 7, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2834 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. _____

Date : August 18, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Hidetoshi Kusumi et al
Application No. :11/100,564
Filed :April 7, 2005

The above-identified application has been assigned Patent No. 7,095,127 and an issue date of August 22, 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 22, 2006:

"All reference to Patent No. 7,095,127 to Hidetoshi Kusumi et al of Belgium for ENGINE STARTING APPARATUS appearing in the Official Gazette of August 22, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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

SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH CH-80-47 CH SWITZERLAND

COPY MAILED

MAR 16 2007

OFFICE OF PETITIONS

In re Application of :
Peter Voiz :
Application No.: 11/100,586 : DECISION ON
Filing or 371(c) Date: 04/07/2005 : PETITION
For: METHOD FOR PRODUCTION OF A :
THROTTLE VALVE IN A CONTINUOUS :
THROTTLE VALVE CONNECTOR :

This is a decision in response to the Petition to Withdraw Holding of Abandonment, filed October 26, 2006. The petition is properly treated under 37 CFR 1.181. The delay in treating this petition is regretted.

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 Notice to File Missing parts of Nonprovisional Application ("Notice"), mailed June 3, 2006. The Notice required additional claim fees. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on August 4, 2006. A Notice of Abandonment was mailed September 26, 2006.

Petition under 37 CFR 1.181

Applicant/Petitioner files the instant petition and asserts that the application as-filed included a preliminary amendment that did not included multiple dependant claims. Further Petitioner asserts that he telephoned the Office of Initial Patent Examination and this Office "recognized the mistake and announced the sending of a new notice." Petition at p.2.

Applicable Law, Rules and MPEP

Petitioner is advised that

> 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. (Emphasis supplied).

37 CFR 1.2

Accordingly, Petitioner's assertion that he telephoned the Office of Initial Patent Examination and this Office "recognized the mistake and announced the sending of a new notice," has no bearing on whether the application is properly abandoned.

As the rule states, "[a]ll business with the Patent and Trademark Office should be transacted in writing." Here, the Office mailed the Notice on June 3, 2006. The Notice required additional claim fees. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. Applicant failed to file a reply. Because no reply was received, the application became abandoned on August 4, 2006. (Emphasis supplied). "The action of the Patent and Trademark Office will be based exclusively on the written record in the Office." Id. In accordance with the written record, no reply to the Notice was received, and the application subsequently went abandoned.

The preliminary amendment

A review of the preliminary amendment filed with the application papers reveals that the amendment failed to comply with 37 CFR 1.121. Applicant asserts in the petition that he filed on April 7, 2005, the present application, a Preliminary Amendment, a substitute specification and a marked-up substitute specification. A review of Office records reveals that Applicant filed an 11 page specification; a 12 page specification, and a third marked-up specification 14 pages; however, none of the specifications included a section, beginning on a separate paper entitled "Amendments to the Specification".

Conclusion

Applicant failed to respond to the Notice. Accordingly, the application is properly held abandoned.

Alternative venue

Applicant may alternatively 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, currently $750.00.

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:	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

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

SIEMENS SCHWEIZ AG
I-47, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH CH-80-47 CH SWITZERLAND

COPY MAILED

JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Peter Voiz	:	
Application No.: 11/100,586	:	DECISION ON
Filing or 371(c) Date: 04/07/2005	:	PETITION
For: METHOD FOR PRODUCTION OF A	:	
THROTTLE VALVE IN A CONTINUOUS	:	
THROTTLE VALVE CONNECTOR	:	

This is a decision in response to the "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)", filed April 4, 2007.

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 3, 2005. The Notice required additional claim fees, or cancellation of the additional claims. The Notice set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on August 4, 2005. A Notice of Abandonment was mailed September 25, 2006.

Petition under 37 CFR 1.181

Applicant/Petitioner filed a petition to withdraw the holding of abandonment on October 26, 2006, which was dismissed in a Decision mailed March 16, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.181.

The present petition

Applicant files the present petition and Supplemental Preliminary Amendment in Response to the Notice. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing 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

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

4/28/09

Patent No. :7496132
Ser. No. :11/100594
Inventor(s) : Young-Joon Song
Issued : 2/24/09
Title : PILOT SIGNALS FOR SYNCHRONIZATION AND/OR CHANNEL ESTIMATION
Docket No. :

Re: Request for Certificate of Correction

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

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

KED & ASSOCIATES, LLP
P.O. BOX 221200
Chantilly, VA 20153-1200

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COPY MAILED

SEP 18 2009

OFFICE OF PETITIONS

KED & ASSOCIATES, LLP
P.O. BOX 221200
CHANTILLY, VA 20153-1200

In re Patent No. **7,496,132**
Issue Date: February 24, 2009
Application No. 11/100,594
Filed: April 7, 2005
Attorney Docket No. **K-0090F.01**

DECISION ON PETITION
UNDER 37 CFR 3.81(b)

This is a decision on the petition filed July 24, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Monica A. Graves at (571) 272-7253. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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

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

MAILED
FROM DIRECTOR'S OFFICE

NOV 17 2007

TECHNOLOGY CENTER 3600

Roylance, Abrams, Berdo & Goodman, L.L.P
1300 19th Street, N.W.
Suite 600
Washington, D.C. 20036

In re Application of: Achilles et al.
Appl. No. 11/100,618
Filed: April 7, 2005
For: VEHICLE SEAT SYSTEM,
ESPECIALLY FOR AN AIRCRAFT

DECISION ON PETITION
UNDER 37 CFR §1.181

This is a decision on Applicant's Petition under 37 CFR §1.181 filed on September 21, 2007 requesting (1) Entry of August 23, 2007 Amendment, (2) Withdrawal of Finality of May 23, 2007 Office Action, and/or (3) Reversal of Objections to Drawings.

The Petition is **GRANTED-IN-PART.**

The record reflects that a non-final office action was mailed May 4, 2006. Petitioner filed a response on November 2, 2006. In response, a final office action was mailed on May 23, 2007. The final office contained an objection to the drawings that was not previously raised. On August 23, 2007, an amendment was filed. An Advisory Action mailed September 13, 2007 stated that the amendment would not be entered.

Regarding the first part of the petition, Petitioner argues that the claims were amended to remove limitations to avoid the objection to the drawings raised in the final rejection. The changes to claims 20 and 21 involved the deletion of the recitations of the term "rail". As these changes merely serve to simplify the issues in the case, the petition in regards to the entry of the August 23, 2007 is Granted. However, it is noted that Petitioner filed a subsequent amendment on November 21, 2007 in which the recitation of the "rail" was included in claims 20 and 21. As the Advisory Action of October 11, 2007 noted, this amendment will be entered for purposes of appeal, which therefore, makes this portion of the petition moot.

Regarding the second part of the petition, Petitioner argues that the finality of the office action mailed May 23, 2007 is premature and improper as it contained an objection to the drawings which was not raised in the first Office Action. MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c)

with the fee set forth in 37 CFR 1.17(p). The final office action set forth a new ground of rejection, however, this new grounds was necessitated by Petitioner's amendment. Petitioner argues that the objection to the drawings "constitutes a new issue which was not necessitated by a previously filed Amendment." However, the objection to the drawings is not a rejection and therefore has no bearing on the finality of the office action. As noted by the MPEP, grounds of *rejection*, not objections, effect whether or not a second or subsequent action shall be made final. There, the finality of the office action is deemed proper.

Regarding the third part of the petition, Petitioner requests that the objection to the drawings be withdrawn. Petitioner argues that the "space separator" is shown in Figure 6 and the rail is shown by support 13. The petition in regards the drawing objection is granted.

SUMMARY: The Petition is **GRANTED-IN-PART.** The petition is Granted as to the entry of the August 23, 2007 Amendment; the Petition is Dismissed as to the withdrawal of finality; and the Petition is Granted as to the reversal of objection to drawings.

Petitioner is reminded that an Appeal Brief is due within two months of the filing of the September 21, 2007 Notice of Appeal.

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

Wynn Coggins
Director
Technology Center 3600
571-272-5350

DRD: 10/31/07

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

COPY MAILED

FEB 29 2008

OFFICE OF PETITIONS

In re Application of
KOBAYASHI, et al.
Application No. 11/100,630
Filed: April 7, 2004
Attorney Docket No. **Q87354**

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 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 4, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3679 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

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.*

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

INNOVATION LAW GROUP
1165 ROSEFIELD WAY
MENLO PARK, CA 94025

COPY MAILED

JUL 2 1 2006

OFFICE OF PETITIONS

In re Application of :
Mari Dezawa :
Application No. 11/100,664 : DECISION GRANTING PETITION
Filed: April 7, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. SANBIO-2USNP :

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed May 24, 2005, which required the submission of an executed oath or declaration and a $130 surcharge fee for the late filing of the executed oath or declaration. The Notice set a period for reply of two (2) months from the mailing date of the Notice, with extensions of time being available under 37 CFR 1.136(a). Accordingly, a timely reply could have been submitted up to and including December 27, 2005 (December 24, 2005 was a Saturday and December 26, 2005 was a holiday) with the appropriate extension of time fee. While the petition itself bears a timely certificate of mailing date of December 27, 2005, the reply to the Notice does not have a certificate of mailing nor was the extension of time fee submitted sufficient to cover the necessary fee for a five month extension of time and no authorization to charge a deposit account is present in the file. Accordingly, the above-identified application became abandoned on July 25, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the items required by the Notice of May 24, 2005; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of May 24, 2005 is accepted as having been unintentionally delayed.

Extensions of time under 37 CFR 1.136 are available only if asked for "prior to or with the response." In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due when filing a petition for revival. In view thereof, the extension of time fee submitted with the petition is unnecessary. Petitioner may request a refund of the $1,590 extension fee submitted by writing to the following address: **Mail Stop 16, Director of the U.S. Patent and Trademark Office, 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 the undersigned at (571) 272-3218.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

FEB 1 1 2008

OFFICE OF PETITIONS

In re Application of :
DEZAWA, Mari :
Application No. 11/100,664 : DECISION ON PETITION
Filed: April 7, 2005 : TO WITHDRAW
Attorney Docket No. **8910-0001** : 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 July 13, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked and re-appointed by the assignee of the patent application on December 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROBINS & PASTERNAK**
1731 EMBARCADERO ROADSUITE 230
PALO ALTO, CA 94303

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

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

COPY MAILED

MAR 10 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Reddy et al. :
Application No. 11/100,668 :
Filed: April 6, 2005 :
Attorney Docket No. 05149.0013.NPUS00 :

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement signed by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to the Technology Center Art Unit 2871 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Johan Nyander	: DECISION ON REQUEST FOR
Patent Number	: 7629392	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,683	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **802** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 05/18/2010

Applicant : Johan Nyander
Patent Number : 7629392
Issue Date : 12/08/2009
Application No: 11/100,683
Filed : 04/07/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **836** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

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

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

COPY MAILED

NOV 09 2007

OFFICE OF PETITIONS

In re Application of :
Eric J. Horvitz, et al. :
Application No. 11/100,699 : DECISION ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. MS150907.03 / :
MSFTP165USB

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed September 8, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1500; 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 Technology Center AU 2121 for appropriate action by the Examiner in the normal course of business on the reply received April 26, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WESTMAN CHAMPLIN & KELLY, P.A.
900 SECOND AVENUE SOUTH, SUITE 1400
MINNEAPOLIS MN 55402-3319

COPY MAILED

OCT 23 2006

OFFICE OF PETITIONS

In re Application of :
ERICKSON :
Application No. 11/100,710 : DECISION ON PETITION
Filed: April 7, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. E41.12-0001 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 25, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes an affidavit from Robert Erickson attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

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	: Teresa Martineau	: DECISION ON REQUEST FOR
Patent Number	: 7606736	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,729	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

Alison J. Baldwin
McDonnell Boehnen Hulbert & Berghoff
32nd Floor
300 S. Wacker Drive
Chicago, IL 60606

Mail Date: 04/23/2010

Applicant	: Roman Coppola	: DECISION ON REQUEST FOR
Patent Number	: 7610872	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,745	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www. uspto. gov

VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD, SUITE 500
ARLINGTON, VA 22201-2909

COPY MAILED

DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Mark P. Mielke et al :
Application No. 11/100,753 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 96-3-712CON3 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 22, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 11, 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 April 12, 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 2618 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Eden U.I. Stright
1515 Court House Road, Suite 500
Arlington, VA 22201-2909

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

COPY MAILED
FEB 04 2010

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

In re Application of :
Anthony R. Metke, et al. :
Application No. 11/100,754 : ON PETITION
Filed: April 7, 2006 :
Attorney Docket No. CMO7326H :

This is a decision on the petition under 37 CFR 1.137(a), filed November 25, 2009, to revive the above-identified application. Alternatively, petitioner requests that the application be revived under the provisions of 37 CFR 1.137(b).

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The application became abandoned for failure to timely pay the issue and publication fees on or before September 22, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 22, 2009, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 23, 2009. A Notice of Abandonment was mailed on October 19, 2009.

Petitioner asserts that a docketing error was the cause of delay in acting to prevent the application from becoming abandoned. A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. *See* MPEP 711.03(c)(II)(C)(2).

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).

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. The petition is not accompanied by a statement by the employee in charge of docketing correspondence for this application. Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. While petitioner describes the employee as a "trained docketing professional" petitioner does not supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, the showing of record is sufficient to establish that the entire delay in filing the petition was unintentional.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Accordingly, the petition under 37 CFR 1.137(b) is **GRANTED**.

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

PATENT
HES 2003-IP-010139U1P1D1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: William J. Caveny et al.

Serial No.: unknown 11/100757

Filed: concurrently herewith 4-7-05

Art Unit: unknown 1755

Examiner: Unknown Marcantoni, P

For: CEMENT COMPOSITIONS COMPRISING SET RETARDER COMPOSITIONS AND ASSOCIATED METHODS

Assistant Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Group Director

DECLARATION IN SUPPORT OF PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE (37 C.F.R. § 1.102(c) and M.P.E.P. § 708.02, IV)

I, the person signing below hereby declare:

1. That, I am over 65 years of age; and

2. That, all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Ronney R. Koch

Ronney R. Koch

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
APR 27 2006

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

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/21/2010

Applicant	: Clarence Chui	: DECISION ON REQUEST FOR
Patent Number	: 7602375	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,762	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1109** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

Mail Date: 04/21/2010

Applicant	: Jarod R. Hammar	: DECISION ON REQUEST FOR
Patent Number	: 7666947	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,776	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1028** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Narasimhan Trichy Rajagopal	: DECISION ON REQUEST FOR
Patent Number	: 7598822	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FROM DIRECTOR'S OFFICE
MAR 23 2009
TECHNOLOGY CENTER 3600

Thomas J. Brindisi, Esq.
Suite B
20 28th Place
Venice, CA 90291

In re Application of
David T. Jennings III
Application No. 11/100,808
Filed: April 6, 2005
FOR: CONSTANT-CURRENT, RAIL-VOLTAGE REGULATED CHARGING ELECTRONIC DETONATOR

: PETITION UNDER 1.181 FOR
: RECONSIDERATION OF
: A DEFECTIVE BRIEF

This is in response to the petition filed on February 5, 2009 for reconsideration of the holding of a defective brief mailed January 16, 2009.

The petition is **DISMISSED**.

FACTS

Applicant filed an appeal brief on September 26, 2008.

On October 16, 2008, the examiner held the brief defective. One of the issues was that "The summary of the claimed subject matter does no refer to claims (1, 26, 31) on appeal separately to the specification by page, and line numbers and to the drawings, if any."

On October 20, 2008 applicant filed a corrected brief. In this brief the applicant indicated in the summary of claims 1, 26 and 31 "Independent claims 26 and 31 are hereby summarized concisely with incorporation by reference to the foregoing summary of claim 1; the summary of each is identical for purposes of this appeal." The statement was footnoted with an indication of part d of claim 31 "recites a 'means for programming said pyrotechnic device with a non-zero firing delay time,' which is considered to be inclusive of the device's 'means for storing[...] a firing delay time' recited in part d) of claims 1 and 26."

On January 16, 2009, the examiner mailed a second notice of defective brief stating "Appellant does not cite to the specification by page and line number and does not provide reference numerals...with respect to claim 26 and 31."

On February 5, 2009, the instant petition was filed.

37 CFR 41.37(c)(1)(v) states:

Summary of claimed subject matter. A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Upon reviewing claims 1 and 26, it is readily apparent that the claims are identical except for the fact that claim 26 does not include the language "for subsequent use in a countdown/fire sequence." However, claim 31 includes a means plus function recitation that is not mentioned in either of claims 1 or 26, that being a "means for programming." By rule, appellant is required to identify the "structure, material, or acts" described in the specification as corresponding to each claimed function.

Applicant's statement that " 'means for programming said pyrotechnic device with a non-zero firing delay time,' which is considered to be inclusive of the device's 'means for storing[...] a firing delay time' " does not meet this requirement.

Applicant's petition is **DISMISSED**.

As corrected from the notice of defective brief of January 16, 2009, the appellants time period for response continues to run from the notice of non-compliant of October 16, 2008.

Any question concerning this decision should be referred to SPE Michael Carone at 571-272-6873.

Katherine Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

mc: 3/13/09
TL

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE/INDY/COOK
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: Louis B. Goode	: DECISION ON REQUEST FOR
Patent Number	: 7582070	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1020** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Richard K. Errickson	: DECISION ON REQUEST FOR
Patent Number	: 7581021	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,846	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

FROST BROWN TODD, L.L.C.
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

COPY MAILED
AUG 28 2008
OFFICE OF PETITIONS

In re Application of :
Hueil et al. :
Application No. 11/100,847 : DECISION ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. END5419USCIP1.0527951 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 30, 2007, which set a statutory period of reply of three (3) months. Accordingly, the application became abandoned on March 1, 2008. A Notice of Abandonment was mailed March 25, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

Petitioner has failed to pay the issue fee of $1,440.00 and publication fee of $300.00.

35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the issue fee or any portion thereof.

Petitioner is advised that, once submitted, the issue fee 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.

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 Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI OH 45202

COPY MAILED

OCT 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Joseph C. Hueil :
Application No. 11/100,847 : DECISION ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. END5419USCIP1.0527951 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 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 February 29, 2008, as required by the Notice of Allowance and Fee(s) Due mailed November 30, 2007. Accordingly, the date of abandonment of this application is March 1, 2008. A Notice of Abandonment was mailed March 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,440.00 and the publication fee of $300.00; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

Additionally, petitioner has filed a Request for Continued Examination (RCE) and fee of $810.00 which has also been accepted.

Further, petitioner argues that "the Applicant need not pay the issue/publication fees in response to a Notice of Allowance if the Applicant instead files an RCE and IDS after the Notice of Allowance has been mailed." However, this is not the case. In order to revive an abandoned application for failure to pay the issue and publication fees, applicant must comply, as previously notified, with 35 U.S.C. 41(a)(7) and 151 wherein each require payment of the issue and publication fees as a condition of reviving an application abandoned for failure to pay these fees. Therefore, the filing of an RCE without payment of the issue and publication fees or any outstanding balance thereof is not an acceptable reply in an application abandoned for failure to pay the these fees or any portion thereof.

The file is now being forwarded to Technology Center 3721 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 14 2009

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
PAN, Tao et al.	:	
Application No. 11/100,856	:	DECISION ON PETITION
Filed: April 06, 2005	:	TO WITHDRAW
Attorney Docket No. **10655.0015-01**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 28, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary

evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **HAYNES AND BOONE, LLP**
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED

NOV 0 4 2009

OFFICE OF PETITIONS

In re Application of :
PAN, Tao et al. :
Application No. 11/100,856 : DECISION ON PETITION
Filed: April 06, 2005 : TO WITHDRAW
Attorney Docket No. **10655.0015-01** : 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 September 28, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 C. Larry O'Rourke on behalf of all attorneys of record who are associated with customer No. 22852. All attorneys/agents associated with the Customer Number 22852 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **TAO PAN**
736 DALEWOOD CT.
SAN JOSE CA 95120

cc: **HAYNES AND BOONE, LLP**
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS, TX 75219

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/22/10

TO SPE OF : ART UNIT 2819

SUBJECT : Request for Certificate of Correction for Appl. No.: 11100865 Patent No.: 7417459

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X**Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ _____

Formatted: Indent: Left: 1.22"
Formatted: Bullets and Numbering

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/100,879	04/06/2005	2661	1200	100101-005400US	5	20	4

CONFIRMATION NO. 4004

37490
CARPENTER & KULAS, LLP
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

CORRECTED FILING RECEIPT

OC000000017012743

Date Mailed: 09/14/2005

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)

Nagarani Chandika, Sunnyvale, CA;
Hugh Holbrook, San Francisco, CA;
Adam Sweeney, San Jose, CA;

Assignment For Published Patent Application

Cisco Technology, Inc., San Jose, CA

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/100,879

Projected Publication Date: 10/12/2006

Non-Publication Request: No

Early Publication Request: No

Title

Network access device with restricted and unrestricted input ports

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

4/3/09

Patent No. :7640137
Inventor(s) :Keisuke Miyagawa
Issued :12/2/2008
Title :Display Device
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 9, and claim 11, is printed in accordance with the record. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

COOK ALEX Ltd.
200 West Adams Street, Suite 2850
Chicago, Illinois 60606

HR

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/16/09

TO SPE OF : ART UNIT 2629 Eisen Alexander

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/100898 Patent No.: 7460137

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: APPROVED AS REQUESTED

ALEXANDER EISEN — **SPE**

2629 — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WilmerHale/Wyeth
60 STATE STREET
BOSTON MA 02109

COPY MAILED

FEB 09 2009

OFFICE OF PETITIONS

In re Application of :
Fawzi et al. :
Application No. 11/100,902 : ON APPLICATION FOR
Filed: October 11, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 0036119.00 :
411US2 :

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTEMENT UNDER 37 C.F.R. § 1.702 - 1.705, filed January 6, 2009. Applicants request that the determination of patent term adjustment be increased by two hundred seventy-three (273) days to eight hundred sixty-three (863) days, as of January 5, 2009. Applicants request the exact term adjustment be recalculated upon issuance. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment

of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WilmerHale/Wyeth
60 STATE STREET
BOSTON MA 02109

MAILED

JUL 07 2009

OFFICE OF PETITIONS

In re Patent No. 7,504,394 :
Fawzi et al. : DECISION ON
Issue Date: March 17, 2009 : REQUEST FOR RECONSIDERATION
Application No. 11/100,902 : OF
Filed: April 7, 2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 0036119. :
00411US2 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTEMENT AND RENEWED REQUEST FOR RECONSDIERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 CFR §1.702-1.705," filed May 15, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred ninety(590) days to nine hundred thirty-four (934) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On May 17, 2009, the above-identified application matured into U.S. Patent No. 7,504,394 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 1.705(d). The required $200.00 fee set forth in 37 CFR 1.18(e)was previously paid on January 6, 2009. No additional fees are required. The fee will not be refunded.

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 344 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 344 days and the period of adjustment due to other examination delay, pursuant to 37 CFR §1.702(a), of 590 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 344 days. This 344 day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on April 7, 2005, and the patent having not issued until March 17, 2009, three years and 344 days later. Patentees assert that in addition to this 344 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a)(1) 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). A non-final Office action was mailed on January 18, 2008, 14 months and 590 days after the application was filed on April 7, 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 0 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (344 days) and the period of Examination Delay (590 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 590 days (June 8, 2006 to January 18, 2008) overlaps with the Three Year Delay period (April 8, 2008 to March 17, 2009). Accordingly, patentees submit that the total period of Office Delay is 934 days, which is the sum of the period of Three Year Delay (344 days) and the period of Examination Delay (590 days), reduced by the period of overlap (0 days).

The period of reduction of 0 days for applicant delay is not in dispute. As such, patentees assert entitlement to a patent term

adjustment of 934 days (344 +590 reduced by 0 overlap - 0 for applicant delay).

The Office agrees that the patent issued 3 years and 344 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 590 days is correct. At issue is whether patentees should accrue 344 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 all 344 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, April 7, 2005 to March 17, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 590 days of patent term adjustment were accorded prior to the issuance of the patent for the Office

---

[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).

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 590 days, not 590 + 344 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 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 590 days of Office delay and the time allowed within the timeframes for processing and examination, the patent issued, three years and 344 days after its filing date. The Office did not delay 590 days then an additional 344 days. The 344 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 590 days attributable to ground specified in § 1.702(a)(1). Entry of both periods is not warranted. 590 days was properly determined to be the actual number of days that the issuance of the patent was delayed, considering the 344 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 590 days.

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

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

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/27/2010

Applicant	: Alpaslan Demir	: DECISION ON REQUEST FOR
Patent Number	: 7596125	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/100,903	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

SEP 21 2005

OFFICE OF PETITIONS

In re Application of :
Leamon M. Woolard et al. :
Application No. 11/100,909 : DECISION ACCORDING STATUS
Filed: April 7, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. TI-38500 :

This is in response to the petition filed September 2, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on April 7, 2005, naming Leamon M. Woolard, Norman P. Smith and Matthew J. Linn but without the signature of joint inventor Linn. Accordingly, on April 29, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. A response was filed July 25, 2005 with a one month extension of time request, but was not totally responsive. Therein, a Notice of Incomplete Reply was mailed August 5, 2005.

In response, the instant petition argues that joint inventor Linn, by his actions, refuses to cooperate with the filing of the instant application.

Since the period for reply runs from the Notice to File Missing Parts mailed April 29, 2005, a three month extension of time request should have been filed for the response to be timely and to avoid abandonment of the application. Thus, petitioner's deposit account no. 20-0668 has been charged in the amount of $900.00 (difference between that which was paid, $120.00, and that which was due, $1,020.00). As well, the petition fee in the amount of $200.00 has been charged to deposit account no. 20-0668.

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 efforts to have nonsigning inventor Linn execute the Oath or Declaration have not resulted in an executed oath or declaration by the non-signing inventor.

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 2131 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
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 21 2005

OFFICE OF PETITIONS

MATTHEW J. LINN
801 LEGACY, #213
PLANO, TX 75023

In re Application of
Leamon M. Woolard et al.
Application No. 11/100,909
Filed: April 7, 2005
For: METHOD OF ADDING NEW USERS TO A WEB BASED PORTAL SERVER

Dear Mr. Linn:

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:

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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 Dec-06

SLINGSHOT KITEBOARDING
PO BOX 759
STEVENSON WA 96648

COPY MAILED

DEC 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Logosz et al. :
Application No. 11/100,911 : DECISION ON PETITION
Filed: 04/06/2005 :
Atty Docket No. SSKB-402 :

This is a decision on the petition filed on 29 August, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 July, 2005, for failure to timely reply to the Notice to File Corrected Application Papers mailed on 3 May, 2005,which set a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 12 January, 2006.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Petitioner states that the Notice was not received because of an error in the correspondence address.

Receipt of the drawings filed on 5 September, 2006, in response to the Notice is acknowledged.

Receipt of the change of correspondence address is acknowledged. All future correspondence will be mailed to the address indicated therein.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

The application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: Nathan Koenig
4501 Post Canyon Dr.
Hood River OR 97031

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

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Raymond E. Bohlmann	: DECISION ON REQUEST FOR
Patent Number	: 7574835	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,915	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1147** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

COPY MAILED

OCT 30 2007

OFFICE OF PETITIONS

In re Application of :
Vincent P. STANON, JR. :
Application No. 11/100,921 : DECISION ON PETITION
Filed: April 07, 2005 :
Attorney Docket No. 5588-8-1-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 27, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 28, 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 election (2) the petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the restriction requirement of February 27, 2007 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,080.00 extension of time fee submitted with the petition on August 30, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The application is being referred to the Technology Center AU 1634 for appropriate action on the concurrently filed election.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Satoshi Tanaka	: DECISION ON REQUEST FOR
Patent Number	: 7622199	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1027** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 05/17/2010

Applicant : Satoshi Tanaka
Patent Number : 7622199
Issue Date : 11/24/2009
Application No: 11/100,936
Filed : 04/07/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **1055** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/07/09

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction for Appl. No.: 11100950 Patent No.: 7591913

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Roy Vaal Ching 1793

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

Applicant	: Zhifeng Ren	: DECISION ON REQUEST FOR
Patent Number	: 7591913	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/100,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **885** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 05/17/2010

Applicant : Zhifeng Ren
Patent Number : 7591913
Issue Date : 09/22/2009
Application No: 11/100,950
Filed : 04/06/2005

: 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 **955** 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).

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Huntley & Associates
1105 North Market Street
P.O. Box 948
Wilmington, DE 19899-0948

COPY MAILED

SEP 0 8 2006

OFFICE OF PETITIONS

In re Application of :

Naoki Hirakawa :
Application No. 11/100,957 : DECISION ON PETITION
Filed: April 6, 2005 : TO WITHDRAW
Attorney Docket No. Hokushin-9 : 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 27, 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

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

092006

PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

In re Application of: Landon Duval Serial No.: 11/100,960 Filed: April 6, 2005 Docket: Duval.L-09 Title: ENGAGEMENT OF A SENSOR SYSTEM WITH A VEHICLE OPERATING DEVICE	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R 1.102(d) and M.P.E.P. § 708.02, VIII

This is a decision on the petition filed on April 6, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable petition fee; b) a statement that all claims are directed to a single invention, and that any election later required will be made without traverse; c) a statement that a pre-examination search was made, including the search areas; d) a discussion of the references that were not submitted in this application.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: A) a petition to make special accompanied by the applicable petition fee; B) all claims are directed to a single invention; C) a statement that a pre-examination search was made, including the search areas; D) a copy of each of the references deemed most closely related to the claimed subject matter; and E) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(A), (B) and (C) are considered to have been met. However, petitioner fails to meet the requirements of MPEP § 708.02(VIII)(D) and (E) because a copy of each of the references deemed most closely related to the claimed subject matter and discussed in part (E) was not provided and because each cited reference has not been discussed with the particularity required by 37 CFR 1.111(b) and (c).

MPEP § 708.02(VIII)(D) requires petitioner to submit "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. Petitioner states that "[t]he relevant references found in this search will be submitted in an IDS under separate cover..." At this time, copies of the references discussed in the petition have not been received. The record reveals that an information disclosure statement (IDS) was filed with the application. However, the references cited therein were not mentioned nor discussed. Accordingly, the petition fails to meet the requirement of MPEP § 708.02(VIII)(D).

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."

Petitioner has submitted one IDS on April 06, 2005, listing several relevant US patents. However, none of these patents was discussed in the petition. Further, the discussion of the references (none cited in the IDS) fails to distinguish each independent claim from each reference in a manner satisfying 37 CFR § 1.111 (b) and (c). The references are discussed individually and the discussion summarizes that "[t]his prior art fails to teach that a series of sensors may be placed in spaced apart positions around a steering wheel..." and concludes that "[t]he combination of using a concentrating chamber with a sensor is new in this art and results in great improvements in sensitivity of measurement, repeatability, accuracy and other benefits. The use of several of these sensors placed in the steering wheel and running cable within the steering wheel central structure is also novel... In Summary, in accordance with the above remarks, we find that the instant invention clearly distinguishes over the foregoing references found in our preliminary patentability search with respect to 35 USC 102. Additionally, we find that no combination of elements borrowed from these references, under 35 USC 103 could be construed to teach the instant invention."

It cannot be clearly ascertained the basis for the petitioner to conclude that the claims are neither anticipated nor made obvious by the discussed references since there was no attempt to point out the patentable novelty which petitioner thinks the claims present in view of the discussed prior art. For example, petitioner states that the prior art fails to teach a series of sensors that may be placed in spaced apart positions around a steering wheel. However, none of the independent claims recites "a concentrating chamber" and independent claim 5 does not recite a series of sensors. Accordingly, the petition fails to meet the requirement of MPEP § 708.02(VIII)(E).

For the above-stated reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

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)).

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 include: an IDS submission and updated discussion required under MPEP § 708.02(VIII)(E).

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

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

MAILED

FEB 05 2010

OFFICE OF PETITIONS

WILMERHALE/WYETH LLC
60 STATE STREET
BOSTON MA 02109

In re Application
Christopher Demerson et al.
Application No. 11/100,983
Filed: April 6, 2005
Attorney Docket No. **AM101551**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed November 6, 2009. Applicant requests that the determination of patent term adjustment be corrected from 524 days to 687 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 court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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.

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 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

---

[2] 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.

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

WYETH LLC
PATENT LAW GROUP
5 GIRALDA FARMS
MADISON, NJ 07940

Mail Date: 05/11/2010

Applicant	: Christopher Demerson	: DECISION ON REQUEST FOR
Patent Number	: 7683051	: RECALCULATION of PATENT
Issue Date	: 03/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/100,983	: OF WYETH
Filed	: 04/06/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

FEB 05 2010

OFFICE OF PETITIONS

WILMERHALE/WYETH LLC
60 STATE STREET
BOSTON MA 02109

In re Application
Kadum A. Ali et al.
Application No. 11/100,998
Filed: April 6, 2005
Attorney Docket No. **36119.420US2**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §§ 1.702-1.705 filed November 6, 2009. Applicant requests that the determination of patent term adjustment be corrected from 524 days to 688 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 court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[1]

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.

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

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.[2]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 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

---

[2] 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.

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

SEP 25 2008

In re Application of :

HOCHMAN, Daryl W. :
Application No. 11/101,000 : DECISION ON PETITION
Filed: April 07, 2005 : TO WITHDRAW
Attorney Docket No. **026700-000300US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 22, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Mark H. Hopkins 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 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 August 22, 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: **DARYL W. HOCHMAN**
9803 COLT DRIVE
BAHAMA, NC 27503

cc: **HUNTON & WILLIAMS LLP**
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

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

DAFFER MCDANEIL LLP
P.O. BOX 684908
AUSTIN TX 78768

COPY MAILED

JAN 27 2006

OFFICE OF PETITIONS

In re Application of :
Schilling et al. :
Application No. 11/101,009 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 5858-0440 (SR 2004/14 US) :

This is a decision on the petition under 37 CFR 1.102(d), filed December 2, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section I: Manufacture.

The petition is **DISMISSED**.

Any request for reconsideration should be filed within TWO MONTHS of the date of this decision.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The instant petition fails to meet the requirements set forth above for special status because it lacks (A). Applicant has failed to include an approximate amount of presently available capital.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206.

This matter is being referred to the Technology Center Art Unit 2633 for action in its regular turn.

David Bucci
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

DAFFER MCDANEIL LLP
P.O. BOX 684908
AUSTIN TX 78768

COPY MAILED

FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Schilling et al.	:	
Application No. 11/101,009	:	ON PETITION
Filed: April 7, 2005	:	
Attorney Docket No. 5858-04400	:	

CORRECTED DECISION

This is a decision on the petition under 37 CFR 1.102(d), filed December 2, 2005, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
>
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is includes a statement by the attorney of record, Kevin L. Daffer, and complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2872 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLE C/O MOFO SD
12531 HIGH BLUFF DRIVE #100
SAN DIEGO, CA 92130-2040

Mail Date: 04/21/2010

Applicant	: Craig Prouse	: DECISION ON REQUEST FOR
Patent Number	: 7615938	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **780** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

WEAVER AUSTIN VILLENEUVE & SAMPSON LLP - ALTERA
ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Timothy P. Allen	: DECISION ON REQUEST FOR
Patent Number	: 7627784	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **734** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

WEAVER AUSTIN VILLENEUVE & SAMPSON LLP - ALTERA
ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 05/17/2010

Applicant : Timothy P. Allen
Patent Number : 7627784
Issue Date : 12/01/2009
Application No: 11/101,027
Filed : 04/06/2005

: 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 **763** 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

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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 04/20/2010

Applicant	: Vincent K. Jones IV	: DECISION ON REQUEST FOR
Patent Number	: 7599282	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,029	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **779** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

Mail Date: 05/17/2010

Applicant : Vincent K. Jones IV
Patent Number : 7599282
Issue Date : 10/06/2009
Application No: 11/101,029
Filed : 04/06/2005

: 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 **812** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

KUDIRKA & JOBSE, LLP
ONE STATE STREET
SUITE 800
BOSTON MA 02109

COPY MAILED

OCT 25 2005

OFFICE OF PETITIONS

Applicant: Pichler
Appl. No.: 11/101,042
Filing Date: April 7, 2005
Title: ORGANIC LIGHT-EMITTING DEVICE AND METHOD OF FABRICATING THE SAME
Attorney Docket No.: C0003/7002C2
Pub. No.: US 2005/0181526 A1
Pub. Date: August 18, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on September 12, 2005, 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, as the first page of the specification in the publication does not include the preliminary amendment filed with the application.

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 patent application publication does not include a mistake with respect to the continuity information printed on the first page of the specification. The patent application publication does not include a mistake regarding the failure to include the preliminary amendment in the

[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).

publication by the Office because patent application publications are not required to include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. **The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b),** amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun. (emphasis added)

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. Until this past year, patent application publications were published as originally filed. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The preliminary amendment to the specification filed April 7, 2005, does not comply with 37 CFR 1.125(b). The applicant did not supply a copy of the application in compliance with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a) and the priority information was included on the front page of the publication.

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

It would greatly benefit the Office if applicant did not provide a copy of the application as filed and a copy of the preliminary amendment previously filed with the request for a corrected publication, as the Office already has a copy in the application file and it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point

---

[2]Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request. If it is not clear why the error is a material error, further explanation may be warranted.

Applicant's request for a corrected patent application publication on September 12, 2005, may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 10 2006

Director's Office
Group 3700

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY NY 12203

In re Application of:
CHRISTY, PHILIP TROY
Serial No.: 11/101,044
Filed: April 7, 2005
Docket: 2591-001
Title: BACKPACK

DECISION ON REQUEST FOR PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on October 6, 2005 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that if an election must be made, applicant would agree to limit examination of this application to the article claims; c) a statement that a search has been made; d) an IDS; and e) a detailed 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 requirement of MPEP § 708.02(VIII)(a), is considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII)(b), (c), (d) and (e).

MPEP § 708.02(VIII)(b) requires the petitioner to state that all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, the applicant will make an election without traverse. The petitioner stated that

"If an election must be made (which requirement Applicant would oppose), applicant would agree to limit examination of this application to the article claim." This statement runs contrary to the requirements of MPEP § 708.02(VIII)(b) because petitioner *must* make a statement that the 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, the applicant will make an election without traverse. Because the petition does not contain this statement, it fails to meet the requirements of MPEP § 708.02(VIII)(b).

MPEP § 708.02(VIII)(c) requires a statement that a pre-examination was made, listing the field of search by class and subclass. The petitioner only states that "Prior to the filing of any patent application, searches were conducted . . ." However, the petitioner did not include any details of his search. Most importantly the petitioner does not include the specific classes and subclasses searched. Because the petition does not contain this statement, it fails to meet the requirements of MPEP § 708.02(VIII)(c).

MPEP § 708.02(VIII)(d) requires the petitioner to submit a copy of each of the references deemed most closely related to the claimed subject matter. The petitioner "believes that there is a Chinese entity manufacturing and selling a backpack with an inflatable bladder." The petitioner "is also aware that a company by the name of Airpack puts out a product where a cylindrical-shaped bladder is blown up and inserted into the backpack." However, the petitioner has not submitted any documentation regarding these references. Because the petition does not contain the required submission, it fails to meet the requirements of MPEP § 708.02(VIII)(d).

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." The applicant provides a discussion of some of the references cited but does not point out the particular language that distinguishes the independent claims 9, 10, and 11, filed on May 26, 2006, from these references. The applicant's general allegations that the invention is patentable over the references run contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. Moreover, the petitioner only compares some of the references to the present invention. *Each* independent claim should 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 by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide

1) A statement that all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, the applicant will make an election without traverse;
2) a statement that a pre-examination was made, listing the field of search by class and subclass;
3) a copy of each of the references deemed most closely related to the claimed subject matter; and
4) a detailed discussion of each reference that clearly points out the specific language in each independent claim that distinguishes over the reference.

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

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

John P. O'Banion
O'Banion & Ritchey, LLP
400 Capitol Mall, Suite 1550
Sacramento, CA 95814

COPY MAILED

APR 2 6 2007

OFFICE OF PETITIONS

In re Application of :

Michael Pendergrass :
Application No. 11/101,052 : DECISION ON PETITION
Filed: April 6, 2005 : TO WITHDRAW
Attorney Docket No. PEN1257.07A1 : FROM RECORD
:

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 28, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John O'Banion on behalf of all attorneys of record with the firm O'Banion & Ritchey, LLP. 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 sole inventor Michael Pendergrass at the address indicated below.

A non-final rejection was mailed on December 21, 2006. Failure to respond within the extendable time period will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mr. Michael Pendergrass
1904 Great Divide Court
Rocklin, CA 95765

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/101,052	04/06/2005	Michael Pendergrass	PEN1257.07A1

CONFIRMATION NO. 4207

OC000000023541068

8156
JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Date Mailed: 04/25/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/28/2006.

- 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.

Kimberly Gravinot

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Pendergrass
148 Emerald Hills Drive
Elizabethton TN 37643

COPY MAILED

NOV 10 2008

In re Application of :
Suetsugu et al. :
Application No. 11/101,052 : ON PETITION
Filed: April 6, 2005 :
Title: Rocking Doorstop :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed July 8, 2008.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of August 14, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment and two month request for extension of time were filed on January 16, 2008 (certificate of mailing January 14, 2008). An advisory action was mailed on February 19, 2008, informing applicant that the January 16, 2008 amendment failed to place the application in condition for allowance. This application was held abandoned on January 15, 2008. A Notice of Abandonment was mailed on March 21, 2008.

Petitioner contends the holding of abandonment should be withdrawn because the January 16, 2008 amendment was responsive. Petitioner argues that the amendment included an inadvertent informality which could have been resolved via a short phone call. Petitioner states that pursuant to MPEP 714.03(c), he was entitled to additional time to correct the informality. Petitioner also states that he did not receive the advisory action in time to respond because he moved to a new residence.

The Advisory Action mailed on February 19, 2008 states that the amendment did not place the application in condition for allowance because it raised new issues that would require further consideration and/or search. Thus, contrary to petitioner's argument, the amendment contained more than an inadvertent informality.

37 CFR 1.135 states:

> (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.

However, the practice under 37 CFR 1.135(c) of giving applicant a time period to supply an omission in a bona fide reply does not apply after a final Office action. Amendments after final are approved for entry only if they place the application in condition for allowance or in better form for appeal. Otherwise, they are not approved for entry. See MPEP § 714.12 and § 714.13. Thus, an amendment should be denied entry if some point necessary for a complete reply under 37 CFR 1.113 (after final) was omitted, even if the omission was through an apparent oversight or inadvertence. Where a submission after a final Office action ** (e.g., an amendment under 37 CFR 1.116) does not place the application in condition for allowance, the period for reply under 37 CFR 1.113 continues to run until a reply under 37 CFR 1.113 (i.e., a notice of appeal or an amendment that places the application in condition for allowance) is filed. The nature of the omission (e.g., whether the amendment raises new issues, or would place the application in condition for allowance but for it being unsigned or not in compliance with 37 CFR 1.121) is immaterial. The examiner cannot give the applicant a time period under 37 CFR 1.135(c) to supply the omission. See MPEP 714.03. Pursuant to 37 CFR 1.136 (a) if there was additional time left in the six (6) month statutory time period, applicant could have purchased additional time. In this instance, additional time was available to respond after the mailing of the Advisory action as the maximum time to purchase an extension of time expired on February 15, 2008.

Further, pursuant to 37 CFR 1.116 (b) the admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination from termination. MPEP 711.03 (c) is clear that an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, when the applicant simply permits the maximum extendable statutory period for reply to expire while awaiting a notice of allowance or other action.

Lastly, the failure to receive the Advisory Action due to applicant's failure to timely notify the Office of his new address has no baring on the withdrawal of the holding of abandonment. Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), $810.00 for a small entity;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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) 272-3215.

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

DERGOSITS & NOAH LLP
THREE EMBARCADERO CENTER
SUITE 410
SAN FRANCISCO CA 94111

COPY MAILED

SEP 21 2009

OFFICE OF PETITIONS

In re Application of
Richard S. Ginn et al.
Application No. 11/101,058
Filed: April 6, 2005
Attorney Docket No: 937.08

ON PETITION

This is a decision on the petition filed August 14, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed September 5, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned December 8, 2008. Accordingly, a Notice of Abandonment was mailed May 27, 2009.

This matter is being referred to Technology Center 3733 for appropriate action on the amendment filed August 14, 2009.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

COPY MAILED

SEP 20 2007

OFFICE OF PETITIONS

In re Patent No. 7,119,860 :
Issue Date: October 10, 2006 :
Application No. 11/101,065 : DECISION ON PETITION
Filed: April 7, 2005 :
Atty Docket No. NECE 20.389A :

This is a decision on the request filed December 1, 2006, 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 petition is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

As authorized, the processing fee of $130 for the request under 37 CFR 3.81(b) and the fee of $100 for the certificate of correction have been assessed to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

COPY MAILED

APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Erhard Schreck et al.	:	
Application No. 11/101,088	:	DECISION ON PETITION
Filed: April 7, 2005	:	PURSUANT TO
Attorney Docket No.: M142.12-0024/STL 7720.50	:	37 C.F.R. § 1.137(B)
Title: DISK DRIVE THAT VARIES THE POWER TO A SLIDER MOVER DURING TRANSITIONS BETWEEN DRIVE OPERATIONS	:	

This is a decision on the petition filed September 12, 2007, pursuant to 37 C.F.R. § 1.137(b) to revive the above-identified application.

The previously submitted change of correspondence address has been entered and made of record.

The petition pursuant to 37 C.F.R. § 1.137(b) 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 and Issue Fee Due, mailed September 11, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time are permitted for transmitting issue fees[1]. Accordingly, this application

1 See MPEP § 710.02(e).

became abandoned on December 12, 2006. A Notice of Abandonment was mailed on January 5, 2007.

A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R § 1.17(m);
(2) 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;
(3) 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 issue and petition fees, along with the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO, CA 94303

Mail Date: 04/21/2010

Applicant	: H. Steve Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7534775	: RECALCULATION of PATENT
Issue Date	: 05/19/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,095	: OF WYETH
Filed	: 04/07/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080505

DATE : May 20, 2008

TO SPE OF : ART UNIT 3723

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:

/LEE D. WILSON/
OK THESE ARE MINOR CHANGES NOT AFFECTIING PATENTABILITY

SPE: Joseph J. Hail Art Unit 3723

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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of :
GUPTA, SANYOGITA :
Application No. 11/101,136 : ON APPLICATION FOR
Filed: April 7, 2005 : PATENT TERM ADJUSTMENT
Atty. Docket No. 088245-7220 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed February 1, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred fifty-seven (957) days, not five hundred ninety-one (591) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the

actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

---

[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.

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 the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05/25/10

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 11101139 Patent No.: 7281919

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☑ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

PHILIP TUCKER 1791

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Mail Date: 04/21/2010

Applicant	: Yilmaz Bayazit	: DECISION ON REQUEST FOR
Patent Number	: 7677400	: RECALCULATION of PATENT
Issue Date	: 03/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,143	: OF WYETH
Filed	: 04/07/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York, NY 10017

COPY MAILED

SEP 15 2006

OFFICE OF PETITIONS

In re Application of :

Zimmerman Markus :

Application No. 11/101,152 : DECISION ON PETITION

Filed: April 7, 2005 :

Attorney Docket No. 979-132

This is a decision on the petition under 37 CFR §1.137(b), February 13, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1400.00 and publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed October 5, 2005. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on January 6, 2006.

The issue fee was received on February 13, 2006.

Form PTOL-85B, filed February 13, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

NOV 15 2005

OFFICE OF PETITIONS

In re Application of :
Pauley, Bhakta, Gervasi, Chen, and Delvalle :
Application No.: 11/101,155 : DECISION ACCORDING
Filed: April 7, 2005 : RULE 47(a) STATUS
Attorney Docket No:NETL.024A :
For: HIGH DENSITY MEMORY MODULE USING STACKED PRINTED CIRCUIT BOARDS

This is in response to the petition under 37 CFR 1.47(a), filed November 7, 2005 (certificate of mailing dated November 4, 2005.)

The petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on April 7, 2005 and was not accompanied by a properly executed declaration. A Notice to File Missing Parts of Nonprovisional Application was mailed on May 5, 2005, indicating that the declaration, surcharge, filing fees and claim fees were missing and allowing a two-month period in which the missing items could be filed. On November 7, 2005, the instant petition was filed, responsively.

Petitioner has shown that inventor Delvalle has constructively refused to execute the declaration and join 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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY GODWARD, LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

COPY MAILED

MAR 0 8 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark Vadon et al.	:	
Application No. 11/101,159	:	DECISION ON PETITION
Filed: April 6, 2005	:	TO WITHDRAW
Attorney Docket No. BLUN-002/01US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 25, 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 Cliff Z. Liu on behalf of all attorneys of record who are associated with customer No. 23419. All attorneys/agents associated with the Customer Number 23419 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence regarding this application will be directed to the assignee, Blue Nile, Inc., who has intervened in this application. A courtesy copy of this decision will be mailed to Grace Han Stanton with the firm of Perkins Cole, LLP as indicated in the request to withdraw. If the attorneys associated with this firm desire to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Blue Nile, Inc.
705 Fifth Avenue S. Suite 900
Seattle, WA 98104

cc: Grace Han Stanton, Esq.
Perkins Cole, LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Xu et al.	:	
Application No. 11/101,162	:	ON APPLICATION FOR
Filed: April 6, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. UMY-098	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705(b) filed July 17, 2008. This request was recently forwarded to the undersigned for consideration. Applicant requests that they be granted a patent term adjustment of one hundred twenty-nine (129) days, with an additional term equal to the number of days following the submission of this paper and the actual issue date of a patent. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent. In addition, applicant discloses that the Office has not recognized an additional period of applicant delay pursuant to 37 CFR §1.704.

To the extent that applicant requests review of the initial determination of patent term adjustment, the request for review is **granted**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 21, 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 27 days. Applicant does not state the circumstance that constitutes the basis for their disclosure that the Office has not recognized an additional period of applicant delay pursuant to 37 CFR §1.704.

Nonetheless, a review of the record reveals a basis for entry of an additional period of reduction for applicant delay pursuant to 37 CFR 1.704(b). As the amendment filed February 27, 2008, was not in compliance with § 1.113(c), the period for reply to the final rejection mailed November 27, 2007, continued to run. See Advisory Action mailed March 18, 2008. The proper reply, a Notice of Appeal, was not received in the Office until March 27, 2008. Accordingly, a period of reduction of 29 days is being entered (counting the number of days beginning on February 28, 2008, the day after the date that is three months after the date of mailing of the final rejection, and ending on March 27, 2008, the date the Notice of Appeal was filed).

In view thereof, the correct determination of patent term adjustment at the time of mailing of the notice of allowance is zero (0) days (119 - (92 + 29)).

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of

allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PTA calculation.

Day : Wednesday

Date: 1/28/2009
Time: 07:56:37

PALM INTRANET

PTA Calculations for Application: 11/101162			
Application Filing Date:	04/06/2005	PTO Delay (PTO):	119
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-29		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
61	01/28/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		29	
52	04/21/2008	MAIL NOTICE OF ALLOWANCE			
51	04/17/2008	ISSUE REVISION COMPLETED			
50	04/17/2008	DOCUMENT VERIFICATION			
49	04/17/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
48	04/17/2008	NOTICE OF ALLOWABILITY			
42	04/08/2008	DATE FORWARDED TO EXAMINER			
41	03/27/2008	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
40	03/27/2008	NOTICE OF APPEAL FILED			
39	03/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	03/18/2008	MAIL ADVISORY ACTION (PTOL - 303)			
37	03/12/2008	ADVISORY ACTION (PTOL-303)			
36	03/06/2008	DATE FORWARDED TO EXAMINER			
35	02/27/2008	AMENDMENT AFTER FINAL REJECTION			
34	11/27/2007	MAIL FINAL REJECTION (PTOL - 326)			
33	11/26/2007	FINAL REJECTION			
32	09/15/2007	DATE FORWARDED TO EXAMINER			
31	09/07/2007	RESPONSE AFTER NON-FINAL ACTION		92	28
30	09/07/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
29	09/05/2007	CORRESPONDENCE ADDRESS CHANGE			
28	03/07/2007	MAIL NON-FINAL REJECTION			
27	03/05/2007	NON-FINAL REJECTION			
26	09/16/2005	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
25	12/18/2006	DATE FORWARDED TO EXAMINER			
24	12/04/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
23	12/04/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	10/03/2006	MAIL RESTRICTION REQUIREMENT	119		-1
21	09/28/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
20	02/16/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	02/16/2006	CASE DOCKETED TO EXAMINER IN GAU			
18	09/16/2005	REFERENCE CAPTURE ON IDS			
17.7	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	09/16/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	09/20/2005	APPLICATION DISPATCHED FROM OIPE			
15	09/21/2005	APPLICATION IS NOW COMPLETE			
14	09/02/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
12	04/06/2005	CLAIM PRELIMINARY AMENDMENT			
11	09/02/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	09/02/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
9	09/02/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
8	09/02/2005	PRELIMINARY AMENDMENT			
7	09/13/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
6	06/06/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	05/23/2005	CLEARED BY L&R (LARS)			
3	04/21/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	04/18/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/06/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

JUN 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,498,316	:	DECISION ON REQUEST
Xu et al.	:	FOR
Issue Date: March 3, 2009	:	RECONSIDERATION OF
Application No. 11/101,162	:	PATENT TERM ADJUSTMENT
Filed: April 6, 2005	:	and
Atty Docket No. UMY-098	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 4, 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 three hundred three (303) 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 three hundred three (303) days is **GRANTED.**

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) on July 17, 2008. 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 **three hundred three (303)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,498,316 B2

DATED : **March 3, 2009** **DRAFT**

INVENTOR(S) : Xu 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 210 days

Delete the phrase "by 210 days" and insert – by 303 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

BRINKS HOFER GILSON & LIONE
P. O. BOX 10395
CHICAGO IL 60610

COPY MAILED

SEP 07 2006

OFFICE OF PETITIONS

In re Application of :
Carrie L. Wyse et al. :
Application No. 11/101,191 : DECISION ON PETITION
Filed: April 7, 2005 : TO WITHDRAW
Attorney Docket No. 12711-11 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 6, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Joseph Yosick and those practitioners associated with application have been revoked by the assignee of the patent application on August 28, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Charles Smoot at 571-272- 3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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

CHRISTOPHER PARADIES, PH.D.
FOWLER WHITE BOGGS BANKER, P.A.
501 E KENNEDY BLVD, STE. 1900
TAMPA, FL 33602

COPY MAILED

AUG 27 2008

OFFICE OF PETITIONS

In re Application of :
DION-WINN, Nanette :
Application No. 11/101,212 :
Filed: April 7, 2005 :
Attorney Docket No. P050196-01-UT :

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 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. 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 Paradies the sole attorney of record. Christopher Paradies has been withdrawn as attorney of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Nanette Dion-Winn at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: NANETTE DION-WINN
4296 CUTLASS LANE
NAPLES, FL 34102

cc: NANETTE DION-WINN
P.O. BOX 7512
NAPLES, FL 34101-7512

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

John M. Guynn
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Bing Zhou	: DECISION ON REQUEST FOR
Patent Number	: 7569508	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,241	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

INGRASSIA FISHER & LORENZ, P.C. (FS)
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

Mail Date: 04/20/2010

Applicant	: Steven D. Millman	: DECISION ON REQUEST FOR
Patent Number	: 7668274	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,258	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/06/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

SCULLY SCOTT MURPHY & PRESSER, PC
400 GARDEN CITY PLAZA
SUITE 300
GARDEN CITY, NY 11530

Mail Date: 04/21/2010

Applicant	: Katsuya Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7603160	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,264	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **819** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

DORSEY & WHITNEY
555 CALIFORNIA STREET, SUITE 1000
SAN FRANCISCO, CA 94104

COPY MAILED

MAR 3 0 2006

OFFICE OF PETITIONS

In re Application of :
W. Edward Naugler Jr. :
Application No. 11/101,270 :
Filed: April 6, 2005 :
Attorney Docket No. 186350/US/2/RMA/JJZ(4741 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The petition includes a statement by W. Edward Naugler Jr. attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

The Revocation of Power of Attorney filed on February 3, 2006 has not been enter

- The Office acknowledges the § 3.73(b) certificate. However, the § 3.73(b) fails to accompany by a statement affirmingthat 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 a statement specifyingwhere 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). *See* 37 CFR 3.73. Also see the notice entitled "Provisions for Claimingthe Benefitof a ProvisionalApplication With a Non-EnglishSpecificationand Other Miscellaneous Matters" (Off. Gaz. Oct. 25, 2005).

Telephone inquiries concerning this decision should be directed to Wan Laymon at 571-272-3220.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2629 for action on the merits commensurate with this decision.

Wan Laymon
Petitions Examiner
Office of Petitions

cc: HOWREY
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

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

DEC 19 2007

DAHNA S. PASTERNAK
ROBINS & PASTERNAK
1731 EMBARCADERO ROAD, SUITE 230
PALO ALTO CA 94303

In re Application of :
MARTIN et al :
Serial No.: 11/101,287 : Decision on Petition
Filed : 7 APRIL 2005 :
Attorney Docket No 8325-0040 :

This letter is in response to the Petition under 37 C.F.R. 1.144 filed on 4 December 2007.

BACKGROUND

The petition filed under 37 CFR 1.144 requests reconsideration of the restriction requirement mailed 5 June 2007. The restriction requirement had divided claims 1-3 into 41 groups by requiring Applicants to elect a protein listed in Tables 1-2. (It is noted that the claims did not refer to Tables 1-2.)

On 25 June 2007, applicants elected, with traverse, the method of treatment using nucleic acid that encodes the zinc finger domains

F1: DRSNLTR
F2: TSGHLSR and
F3: RSDHLSR.

On 27 August 2007, the examiner considered the traversal of the restriction requirement and made it FINAL. Claims 1-3 were rejected under 35 USC 112, first paragraph for scope of enablement.

On 27 November 2007, applicants filed a response to the Office action.

This petition was filed 4 December 2007, before the filing of a Notice of Appeal, and is thus considered timely.

DISCUSSION

The application, petition and file history have been considered carefully. Claim 1 as it is currently pending is set forth below:

> 1. (currently amended): A method for treating a diabetic neuropathy or a crushed nerve ~~neuropathic or neurodegenerative condition~~ in a subject, the method comprising:
>
> introducing a nucleic acid into a subject, wherein the nucleic acid encodes a polypeptide, wherein the polypeptide comprises:
>
> (i) a zinc finger DNA-binding domain that is engineered to bind to a target site in the vascular endothelial growth factor-A (VEGF-A) gene; and
>
> (ii) a transcriptional activation domain;
>
> such that the nucleic acid is expressed in one or more cells of the subject, whereby the polypeptide binds to the target site and activates transcription of the VEGF-A gene.

The restriction requirement limited the scope of Claim 1 to the 41 combinations of zinc finger proteins set forth in Table 1. The Groups set forth in the restriction requirement are less than the sum of the scope of the claims. If applicant did file 40 division applications directed to each of the 40 non-elected inventions, those scopes encompassed by those 40 divisionals, taken with the elected invention of instant application, would not result in the full scope of claims 1-3. 35 USC 121 does not permit the Office to reduce the scope of the total inventions being examined via restriction requirement. The examiner may not pull limitations out of the specification to use as basis for grouping inventions.

37 CFR 1.146 and MPEP 809 does permit the examiner to require a provisional election of species requirement to species which are disclosed in the specification. That requirement is set forth using Form Paragraph 8.02, as follows

> Claim **1 is** generic to the following disclosed patentably distinct species: **of zinc finger DNA-binding domains as set forth in Table 1**. The species are independent or distinct because as disclosed the different species have mutually exclusive characteristics for each identified species. In addition, these species are not obvious variants of each other based on the current record.
>
> Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.
>
> There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species,** including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

MPEP 819 set forth guidance concerning shifting an election following an examination on the merits.

> The general policy of the Office is not to permit the applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter....

The election made on 25 June 2007 will be treated as an election of species. In this situation, generic claim 1 is considered a linking claim. MPEP 809 provides guidance on the examination practice for Linking Claims

> There are a number of situations which arise in which an application has claims to two or more properly divisible inventions, so that a requirement to restrict the claims of the application to one would be proper, but presented in the same case are one or more claims (generally called "linking" claims) which, if allowable, would require rejoinder of the otherwise divisible inventions. See MPEP § 821.04 for information pertaining to rejoinder practice.
>
> Linking claims and the inventions they link together are usually either all directed to products or all directed to processes (i.e., a product claim linking properly divisible product inventions, or a process claim linking properly divisible process inventions). The most common types of linking claims which, if allowable, act to prevent restriction between inventions that can otherwise be shown to be divisible, are
>
> (A) genus claims linking species claims; and
>
> (B) subcombination claims linking plural combinations.
>
> Where an application includes claims to distinct inventions as well as linking claims, restriction can nevertheless be required. The linking claims must be examined with, and thus are considered part of, the invention elected. When all claims directed to the elected

> invention are allowable, should any linking claim be allowable, the restriction requirement between the linked inventions must be withdrawn....

Linking claims must be examined for patentability under all the statutes. The first action on the merits contained no prior art rejections against the linking claim or the claims limited to the elected species. The action is also silent concerning whether the elected species or the linking claims are free of the prior art. Moreover, the rejection set forth under 112 1st paragraph, for scope of enablement, appears to be limited to the enablement of the elected species. The rejection does not address the other species which are disclosed in Table 1 in terms of their scope of enablement. If the other species disclosed in Table 1 are not enabled, the examiner should have set forth reasons in the enablement rejection was to why only the elected species was enabled. If the other species disclosed in Table 1 are enabled, the rejection should have included this information. The Office cannot use restriction under 35 USC 121 to limit the scope of examination of a linking claim. For these reasons, the first Office action on the merits did not appear to adequately address the patentability of the linking claim. Any subsequent action on the merits which raises new rejections that should have been made in the first Office action on the merits should not be made final.

DECISION

For these reasons, the petition filed under 37 CFR 1.144 is **GRANTED.**

The restriction requirement between Groups 1-41 has been withdrawn and is replaced with a provisional election of species requirement. The elected species is the method of treatment using nucleic acid that encodes the zinc finger domains

F1: DRSNLTR
F2: TSGHLSR and
F3: RSDHLSR.

Claim 1 will be examined as a linking claim per MPEP 809. Should all the claims directed to the elected species become allowable, the election of species will be withdrawn per MPEP 821.04(a).

This application will be forwarded to the Examiner to consider the papers filed on 16 October 2007 and to prepare an Office action on the merits consistent with this decision.

Should there be any questions regarding this decision, please contact 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.

Christopher Low
(Acting) Group Director, 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

BERGGREN LAW OFFICES, LLC
7090 43RD STREET NORTH
OAKDALE MN 55128

COPY MAILED

JUN 27 2008

OFFICE OF PETITIONS

In re Application of :
John D. Kroska :
Application No. 11/101,292 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 04005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 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.

The application became abandoned for failure s to timely pay the issue and publication fees on or before September 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 21, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 22, 2007. The Notice of Abandonment was mailed October 18, 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(s) (1).

The current issue fee for an utility application is $720 in which you paid $700. There is still $20 due to complete the payment of the issue fee.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BERGGREN LAW OFFICES, LLC
7090 43RD STREET NORTH
OAKDALE MN 55128

COPY MAILED

OCT 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
John D. Kroska	:	
Application No. 11/101,292	:	DECISION ON PETITION
Filed: April 7, 2005	:	
Attorney Docket No. 04005	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 7, 2008, 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 September 21, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 21, 2007. Accordingly, the date of abandonment of this application is September 22, 2007. The Notice of Abandonment was mailed October 18, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bracewell & Giuliani LLP
P.O. Box 61389
Houston, TX 77208-1389

MAILED

SEP 08 2005

Director's Office
Group 3700

In re Application of :
Jae Woo Lee, et al. :
Serial No. 11/101,336 : DECISION ON PETITION
Filed: April 07, 2005 : TO MAKE SPECIAL

For: COSMETICS DISPENSER CONTAINER FITMENT

Applicant's petition, filed May 13, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection, which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700
571-272-3750

rt/ 9/7/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

T. D. FOSTER
12760 HIGH BLUFF DRIVE, SUITE 300
SAN DIEGO CA 92130

COPY MAILED

MAR 2 6 2009

OFFICE OF PETITIONS

In re Application of :

KLEMME, Manfred :
Application No. 11/101,339 : DECISION ON PETITION
Filed: April 07, 2005 : TO WITHDRAW
Attorney Docket No. **6158-001-01** : 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 January 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 Thomas Foster on behalf of all attorneys of record who are associated with customer No. 46251. All attorneys/agents associated with the Customer Number 46251 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Manfred Klemme at the address indicated below. There is an outstanding Office action mailed October 15, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **M. KLEMME TECHNOLOGY CORP.**
1834-F POINSETTIA AVENUE
VISTA CA 92081

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

SIDLEY AUSTIN BROWN & WOOD LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

COPY MAILED

JAN 25 2006

OFFICE OF PETITIONS

In re Application of :
Tomiei Kuwa :
Application No.11/101,344 : DECISION REFUSING STATUS
Filed: April 7, 2005 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 15162/06740 :
Title: Projection Optical System :

This is in response to the petition under 37 C.F.R. §1.47(b), filed November 29, 2005.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 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 April 7, 2005, without an executed oath or declaration, and naming Kuwa as the sole inventor. Accordingly, on July 29, 2005, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, a unsigned declaration and to make timely a two 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; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to establish item (5).

Proof of Proprietary Interest

As to item (5), proprietary interest is usually found by establishing a) the invention has been assigned to applicant, or b) the inventor has agreed in writing to assign the invention to the applicant or c) the applicant otherwise has sufficient proprietary interest in the subject

matter to justify the filing of the application. See MPEP 409.03(b). A document purporting to be an assignment signed by inventor Kuwa has been provided as Exhibit D . However, the office is not in receipt of a full translation of exhibit D. It is unclear as to whether a page of the translation is missing since the page is numbered as page 1. Nonetheless the translation does not translate blocks 4-10 nor is there an indication where the inventor's signature can be located in Exhibit D. The renewed petition should provide a full translation of Exhibit D and specifically state where the inventor has executed the assignment document.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. The attorney who has executed the petition is not associated with customer number 24367.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Mail Stop Petition Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

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

SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

COPY MAILED

APR 27 2006

OFFICE OF PETITIONS

In re Application of :
Tomiei Kuwa :
Application No. 11/101,344 : DECISION ACCORDING STATUS
Filed: April 7, 2005 : UNDER 37 C.F.R. §1.47(b)
Attorney Docket Number: 15162/06740 :
Title of Invention: Projection Optical System :

This is in response to the renewed petition for status under 37 C.F.R. §1.47(b), filed March 3, 2006.

The petition is **GRANTED**.

Applicant has satisfied the requirements of §1.47(b)[1]. Applicant, by declaration of persons with first hand knowledge and documentary evidence, demonstrated that the non-signing inventor has refused to sign the declaration. This declaration has been reviewed and is found in compliance with 1.63 and 1.64. Applicant paid the petition fee and included a statement of the non-signing inventor's last known address in the petition. Proprietary interest in the application has been established.

This application is hereby accorded Rule 1.47(b) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

[1] A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage.

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

Tomiei Kuwa
2-2-306, Sakai 2 chome
Musashino-shi
Tokyo, Japan

COPY MAILED

APR 27 2006

OFFICE OF PETITIONS

In re Application of
Tomiei Kuwa
Application No. 11/101,344
Filed: April 7, 2005
Attorney Docket Number: 15162/06740
Title of Invention: Projection Optical System

: LETTER

Dear Mr. Kuwa:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 118 (United States Code) and 37 CFR 1.47(b). Should a patent be granted on the application you will be designated therein as a co-inventor.

As the named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to 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

SIDLEY AUSTIN LLP
717 NORTH HARWOOD
SUITE 3400
DALLAS TX 75201

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/23/2010

Applicant	: Hisashi Ohtsuki	: DECISION ON REQUEST FOR
Patent Number	: 7618194	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,351	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1081** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

COPY MAILED

JAN 22 2007

OFFICE OF PETITIONS

DAVID W. HIGHET, VP AND CHIEF IP COUNSEL
BECTON, DICKINSON AND COMPANY
1 BECTON DRIVE, MC 110
FRANKLIN LAKES NJ 07417-1880

In re Application of :
Newman : DECISION ON PETITION
Application No. 11/101,374 :
Filed: April 6, 2006 :
Docket No.: P-6684C1 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 29, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-final Office action mailed February 14, 2006. The Notice set a three (3) month shortened statutory period of time for reply. No extensions of time in accordance with 37 C.F.R. § 1.136 were timely requested. Notice of Abandonment was mailed October 11, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

This application is being forwarded to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

MAILED

MAY 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Morley et al.	:	
Application No. 11/101,375	:	DECISION ON PETITION
Filed: April 6, 2005	:	TO WITHDRAW
Attorney Docket No. 017516-006712US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 3, 2005.

The request is **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 May 12, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Alicia Kelley at 571-272-6059.

Carl Friedman
Petitions Examiner
Office of Petitions

cc: PATENT DEPT
INTUITIVE SURGICAL, INC
1266 KIFER RD
BUILDING 101
SUNNYVALE, CA 94086

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

John P. Luther
Jenkens & Gilchrist
225 W. Washington Street, Suite 2600
Chicago IL 60606

COPY MAILED

OCT 0 4 2006

OFFICE OF PETITIONS

In re Application of :
WALTON :
Application No. 11/101,382 : DECISION ON PETITION
Filed: April 6, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. (None) : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR 1.102(d), filed September 20, 2005, to make the above-identified application special based on prospective manufacture as set forth in M.P.E.P. § 708.02, Section I.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(d), MPEP § 708.02, Section I: Manufacture, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the Office alleging:

> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
>
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
>
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and

(D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.

Additionally, Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition is accompanied by a declaration by Inventor Paul Walton that complies with the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4787.

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 2176 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE, SUITE 101
RESTON, VA 20191

COPY MAILED
DEC 2 4 2008

In re Application of	:	
Roderick Harold **DURHAM**	:	
Application No. 11/101,402	:	DECISION ON PETITION
Filed: April 8, 2005	:	TO WITHDRAW
Attorney Docket No. **2831.026US2**	:	FROM RECORD

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 10, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **POSZ LAW GROUP, PLC** has been revoked by the assignee of the patent application on November 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **SCHWEGMAN LUNDBERG & WOESSNER, PA.**
P.O. BOX 2938
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED

SEP 28 2006

OFFICE OF PETITIONS

In re Application of :
Lawnie H. Talylor :
Application No. 11/101,433 : DECISION ON PETITION
Filed: April 8, 2006 : TO MAKE SPECIAL UNDER
Attorney Docket No. 031889-5000 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 14, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicants drivers license showing proof of age over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1751 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED

NOV 1 4 2006

OFFICE OF PETITIONS

In re Application of :
Lawnie H. Taylor :
Application No. 11/101,433 : DECISION ON PETITION
Filed: April 8, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 031889-5000 : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 4, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a copy of the applicant's drivers license proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1751 for action on the merits commensurate with this decision.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN - 6 2005

PATTON BOGGS, LLP
2550 M STREET, NW
WASHINGTON, DC 20037-1350

In re application of Harry Edelson Application No. 11/101,436 Filed: April 8, 2005 For: SYSTEM AND METHOD FOR CREATING RECURRENT YIELD MONETARY ASSET BASED FINANCIAL INSTRUMENT DERIVATIVES	: : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on April 8, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a passport for Harry Edelson indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dcg: 5/18/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STANLEY W. TIMBLIN
4 FOREST HILL COURT
GREENSBORO, NC 27410-3831

COPY MAILED

JUL 31 2006

OFFICE OF PETITIONS

In re Application of :
Stanley W. Timblin :
Application No. 11/101,453 : ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.137(b), filed February 23, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed May 9, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 10, 2005.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Tae-Yun Kim	: DECISION ON REQUEST FOR
Patent Number	: 7568263	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,456	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1153** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: An Nguyen-Dinh	: DECISION ON REQUEST FOR
Patent Number	: 7588540	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,526	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **998** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE,
N.W.
SUITE 800
WASHINGTON, DC 20037

COPY MAILED

DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Labidi et al.	:	DECISION ON PETITION
Application No. 11/101,552	:	
Filed: April 8, 2005	:	
Atty Docket No. Q86767	:	

This is in response to the "PETITION UNDER 37 CFR 1.47(A)," filed September 6, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. § 1.136(a).

The above-identified application was filed on April 8, 2005, without an executed oath or declaration. Accordingly, on May 6, 2005, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted (Notice)," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a two-month period for reply with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition; the late surcharge under § 1.16(e); along with a declaration executed by joint inventors Simmonneau, Guerin and Riant on behalf of themselves and on behalf of non-signing joint inventors Labidi, Girardon and Bonnet. This response was made timely by an accompanying petition (and fee) for extension of time for response within the second month. Applicant asserts that status under § 1.47(a) is proper because they are unable to locate and/or obtain signature of three of the six inventors.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (1).

By declaration of Ana Djeric-Galjen, petitioner details presenting the application papers to inventors Bonnet and Girardon. In support thereof, applicants submit a copy of the postal service receipts, showing that inventors Bonnet and Girardon signed for the package containing the application papers. Petitioner has shown that by their conduct, in not responding to the request to execute the declaration, inventors Bonnet and Girardon have refused to join in the application.

However, the evidence shows that the presentation to inventor Labidi was unsuccessful; the postal service receipt shows that the package was undeliverable. Petitioner indicates that an email to inventor Labidi was not responded to, and that the Human Resources Department of the company does not have a newer address for the inventor. The attempts shown to locate or reach inventor Labidi are not sufficient to show diligent effort. There is no indication that Rule 47 applicant attempted to determine the inventors' forwarding addresses from a postal service or through public records, and to send the application papers to any address obtained for consideration by inventor Labidi. See MPEP 409.03(d).

If further attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as by telephone, or the Internet continue to fail, then applicant will have provided

the necessary proof required under 37 C.F.R. § 1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details. Applicants should submit documentary evidence such as the results of any E-mail or Internet searches.

Of course, if inventor Labidi is located, then a showing of presentation to him/her of the entire application package, including specification, claims and drawings, and the subsequent refusal is required for status under § 1.47(a).

Further correspondence with respect to this decision should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By fax: (571) 273-8300
ATTN: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

COPY MAILED
AUG 30 2006
OFFICE OF PETITIONS
CANCELLED
COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE,
N.W.
SUITE 800
WASHINGTON, DC 20037

In re Application of	:	
Labidi et al.	:	DECISION ON PETITION
Application No. 11/101,552	:	UNDER 37 CFR 1.181
Filed: April 8, 2005	:	and
Atty Docket No. Q86767	:	DECISION ACCORDING STATUS
	:	UNDER 37 CFR 1.47(a)

This is a decision on the REQUEST FOR WITHDRAWAL OF NOTICE OF ABANDONMENT filed April 11, 2006. This request is properly treated as a petition under 37 CFR 1.181.

This is also a decision on the REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(A) filed June 2, 2006.

On Petition under 37 CFR 1.181

By Notice of Abandonment mailed February 17, 2006, the Office of Initial Patent Examination (OIPE) advised applicants that the above-identified application was abandoned for failure to timely reply to the Decision on Petition mailed on December 2, 2005.

In response, applicants filed the instant petition, asserting that the Decision on Petition set a two-month period for reply, with extensions of time governed by 37 C.F.R. § 1.136(a). In view thereof, applicants argued that extensions of time were available past February 2, 2006, until July 2, 2006. Further, as applicants intended to respond in a timely manner, withdrawal of the notice of abandonment was requested.

Petitioners are correct. The Decision on Petition set an extendable two-month time limit for reply. Further, as

discussed below, applicants filed a response to the Decision on Petition on June 2, 2006. This response was made timely by an accompanying petition and petition for extension of time for response within the fourth month.

In view thereof, the notice of abandonment mailed February 17, 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.

On Request for Reconsideration of Petition under 37 CFR 1.47(A)

The above-identified application was filed on April 8, 2005, without an executed oath or declaration. In response to the Notice to File Missing Parts of Application mailed May 6, 2005, on September 6, 2005, applicants timely filed the initial petition under 1.47(a). Applicants asserted that status under 1.47(a) is proper because they were unable to locate and/or obtain signature of three of the six inventors. By decision mailed December 2, 2005, the petition was dismissed for failure to provide adequate proof that one of the three inventors, inventor Labidi, could not be reached after diligent effort to join in the application.

On instant renewed petition, petitioner has submitted additional proof of inventor Labidi's unavailability. Specifically, by declaration of patent attorney David Cushing, and supporting documentary evidence, petitioner has shown that inventor Labidi was located, that the application papers were presented to him by mail, and that by his conduct in not responding to the request to execute the declaration, he has refused to join in the application.

The declaration filed September 6, 2005, has been reviewed and found in compliance with § 1.63. The petition fee was previously paid. The renewed petition includes the last known address of inventor Labidi.

In view thereof, 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.

Conclusion

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application file is, thereby, forwarded to OIPE's technical support staff to withdraw the holding of abandonment. Thereafter, the OIPE should complete pre-examination processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED
AUG 30 2006
OFFICE OF PETITIONS

COPY MAILED
AUG 29 2006
OFFICE OF PETITIONS

MR. HEDI LABIDI
135 av Frederic Mistral
84200 Carpentras
FRANCE

In re Application of	:	
Hedi Labidi, Christian Simonneau	:	
Jean-Jacques Guerin,	:	
Valerie Girardon, Xavier Bonnet	:	
and Isabelle Riant	:	LETTER
Application No. 11/101,552	:	
Filed: April 8, 2005	:	
Attorney Docket No. Q86767	:	

Dear Mr. Labidi:

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/03/10

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 11101555 Patent No.: 7329898

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

[redacted]

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER

2812
Art Unit

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE NW
SUITE 800
WASHINGTON, DC 20037

COPY MAILED

SEP 05 2007

OFFICE OF PETITIONS

In re Application of :
Gil Afriat :
Application No. 11/101,563 : DECISION ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. Q87407 :

This is a decision on the petition, filed June 27, 2007, which is being treated as a petition under 37 CFR 1.181(a), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of November 3, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before February 5, 2007 (February 3, 2007, the due date, is a Saturday), or on or before May 3, 2007, with the appropriate extension of time fee.

Petitioner states that a timely reply was filed electronically on January 29, 2007, as is evidenced by the proffered copy of an electronic filing receipt. Additionally, petitioner states that the January 29, 2007 reply also appears in Private Pair. Accordingly, petitioner requests that the Notice of Abandonment be rescinded.

The mailing of the Notice of Abandonment was improper since the reply was timely filed electronically on January 29, 2007, as is evidenced by its appearance in the Image File Wrapper. Accordingly, the Notice of Abandonment mailed on June 14, 2007 is **vacated** and the holding of abandonment **withdrawn**. This application is restored to pending status.

This application is being referred to Technology Center AU 2878 for appropriate action in the normal course of business on the reply received January 29, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Joo-Yul Lee	: DECISION ON REQUEST FOR
Patent Number	: 7652639	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,593	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **699** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

COPY MAILED

MAY 0 2 2007

OFFICE OF PETITIONS

In re Application of :
Witold Gajewski :
Application No. 11/101,597 : DECISION ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. 050017-0315535 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 4, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed May 4, 2006. Accordingly, the date of abandonment of this application is August 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Publishing Division for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONES DAY
222 EAST 41ST STREET
NEW YORK NY 10017-6702

COPY MAILED

AUG 27 2007

OFFICE OF PETITIONS

In re Application of
Hamel et al.
Application No. 11/101,607
Filed: April 7, 2005
Attorney Docket No. 8932-1058-999(232203-999

DECISION DISMISSING
PETITION UNDER 37 CFR 1.10(c)

This is a decision on the petition filed July 2, 2007, which is properly treated as a petition under 37 CFR 1.10(c) requesting that the above-identified application be considered as filed on April 6, 2005, which is the "date-in" or other official USPS notation on the Express Mail Mailing Label, instead of the currently accorded filing date of April 7, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)). No extensions of time pursuant to the provisions of 37 CFR 1.136 are permitted. If reconsideration is not requested within the time period specified above, this application will be referred to the Office of Initial Patent Examination with the presently accorded filing date of April 7, 2005.

37 CFR 1.10(c) sets forth procedures for filing a petition to the Director for a filing date as of the date of deposit with the USPS, where there is a discrepancy between the filing date initially accorded by the Office and the "date in" entered by the USPS or other official USPS notation.

To be grantable, a petition must:

(1) be 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) include a showing that the number of the "Express Mail" mailing label was placed on each piece of correspondence prior to the original mailing; and

(3) include a true copy of the "Express Mail" mailing label showing the "date in" or other official notation by the USPS.

This petition lacks item (1) and (3) above.

Petitioner requests the filing date of April 6, 2005 on the basis that there is a discrepancy between the filing date the USPTO has currently accorded this application and the "date-in" or other official USPS notation on the "Express Mail" mailing label.

As to item (1), this petition was not filed promptly after applicant became aware that the Office accorded a date contrary to what petitioner believes is the correct filing date. Petitioner requested a corrected filing receipt on April 7, 2005. The Office informed applicant on August 3, 2005, that a petition was required to correct the filing date. However, a petition to correct the filing date was not filed until almost two years later.

As to item (3), petitioner has failed to provide a copy of the "Express Mail" label as required.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By facsimile:
(571) 273-8300
Attn: Office of Petitions

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 0 9 2009

OFFICE OF PETITIONS

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

In re Application of :
Alexander G. GOUNARES, et al :
Application No. 11/101,610 : ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. 003797.01200 :

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**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 7, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 8, 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 $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2164 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

COPY MAILED

AUG 2 2 2007

OFFICE OF PETITIONS

In re Application of :
Olaf Storbeck et al. :
Application No. 11/101,639 : DECISION ON PETITION
Filed: April 8, 2005 : TO WITHDRAW
Attorney Docket No. 543822013900 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 13, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Deborah S. Gladstein and the attorneys associated with customer number 25227 has been revoked by the assignee of the patent application on July 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Eschweiler & Associates, LLC
National City Bank Building
Cleveland, OH 44114

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

Brouse McDowell PA
388 South Main Street
Suite 500
Akron, OH 44311

COPY MAILED

AUG 0 6 2008

In re Application of	:	
David A. Martin	:	
Application No. 11/101,693	:	DECISION ON PETITION
Filed: April 8, 2005	:	TO WITHDRAW
Attorney Docket No. 30236.26114	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 26, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Brouse McDowell PA has been revoked by the assignee of the patent application on June 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Emerson, Thomson & Bennett, LLC**
777 W. Market Street
Akron, OH 44303

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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

COPY MAILED

MAR 2 6 2007

OFFICE OF PETITIONS

In re Application of :
Mitsunori Ishizaka :
Application No. 11/101,718 : ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. 12820/3 :

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 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 2874 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
421 W RIVERSIDE AVENUE
SUITE 500
SPOKANE, WA 99201

MAILED

SEP 15 2006

Technology Center 2100

In re Application of: SUAVE, et al.
Application No. 11/101,735
Filed: April 7, 2005
For: SYSTEM AND METHOD FOR SELECTING A TAB WITHIN A TABBLED BROWSER

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION) UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition filed March 9, 2006, under 37 C.F.R. 102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. 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.

In this case, the petition fails to adequately meet the requirement (e) as set forth supra. Responsive to requirement (e), applicant must provide 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." Petitioner should ensure that the above discussion is directed to how the language of each of the independent claims are specifically distinguishable and patentable from the references provided pursuant to requirement (d) supra.

In the petition filed March 9, 2006, Petitioner fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's **cursory treatment** of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the references, Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. Note, for example, a summary of the patent abstract and/or one sentence summary of the publication does not point out substantive detail as is required.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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

Lee & Hayes, PLLC, Marcia A. Tunheim
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

MAILED

MAR 16 2007

Technology Center 2100

In re Application of: Sauve et al.
Application No. 11/101,735
Filed: April 7, 2005
For: SYSTEM AND METHOD FOR SELECTING A TAB WITHIN A TABBLED BROWSER

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on renewed petition, filed on November 15, 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

> A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:
>
> (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
>
> (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
>
> (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
>
> (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
>
> (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of November 15, 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**. The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

Pat Salce

Pat Salce
Workgroup Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3610

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

OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

Mail Date: 04/27/2010

Applicant	: Yoshio Okamoto	: DECISION ON REQUEST FOR
Patent Number	: 7591922	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/101,739	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SENNIGER POWERS (MSFT)
ONE METROPOLITAN SQUARE, 16TH FLOOR
ST. LOUIS MO 63102

MAIL

JUN - 7 2007

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
CAIN, JONATHAN MARSHALL :
Serial No.: 11/101,748 : DECISION ON PETITION
Filed: **April 8, 2005** : *ACCEPTANCE OF COLOR DRAWINGS*
For: **INTERPOLATED COLOR TRANSFORM FOR CHANGING COLOR OF AN APPLICATION USER INTERFACE** :

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed, April 8, 2005, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 1, 3, and 5 be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Michael Horabik
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
www.uspto.gov

Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

COPY MAILED

NOV 0 3 2006

OFFICE OF PETITIONS

In re Application of :
Daniel Thomas Predovic :
Application No. 11/101,752 : DECISION ON PETITION
Filed: April 8, 2005 : TO WITHDRAW
Attorney Docket No. 05306.P072C : FROM RECORD
:

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 4, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and agents associated with Customer Number 08791 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 Terri Williams at 571-272-2991.

Terri J. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/101,752	04/08/2005	Daniel Thomas Predovic	05306.P072C

CONFIRMATION NO. 4975

OC000000021082326

OC000000021082326

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 11/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/101,752	04/08/2005	Daniel Thomas Predovic	05306.P072C

CONFIRMATION NO. 4975

OC000000021082386

OC000000021082386

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 11/02/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/101,752	04/08/2005	Daniel Thomas Predovic	05306.P072C

CONFIRMATION NO. 4975

OC000000021082326

OC000000021082326

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 11/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2006.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Terri Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Halliburton Energy Services, Inc.
2600 South Second Street
P.O. Drawer 1431
Duncan, OK 73536-0440

COPY MAILED

APR 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Raghava B. REDDY, et al. :
Application No. 11/101,762 :
Filed: April 8, 2005 :
Attorney Docket No. **HES 2003-IP-011342U1P1** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 10, 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 December 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed September 22, 2008. Accordingly, the date of abandonment of this application is December 23, 2008.

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 petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition.

However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **BAKER BOTTS, LLP**
910 LOUISIANA STREET
HOUSTON, TX 77002-4995

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

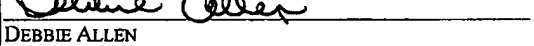
In re Application of: REDDY *ET AL.*	§	Group Art Unit: **3676**
Serial No.: **11/101,762**	§	Confirmation No.: **4969**
Filed: **APRIL 8, 2005**	§	Examiner: **SUCHFIELD, GEORGE A.**
Title: **"CEMENT COMPOSITIONS COMPRISING HIGH ASPECT RATIO MATERIALS AND METHODS OF USE IN SUBTERRANEAN FORMATIONS"**	§	Atty. Docket No: **HES 2003-IP-011342U1P1**

MAIL STOP - PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FILING ELECTRONICALLY VIA EFS
37 CFR § 1.8

I HEREBY CERTIFY THAT I HAVE A REASONABLE BASIS FOR BELIEF THAT THIS CORRESPONDENCE IS BEING SUBMITTED TO THE UNITED STATES PATENT AND TRADEMARK OFFICE VIA EFS (ELECTRONICALLY) ON THE DATE INDICATED BELOW, AND IS ADDRESSED TO:

MAIL STOP PETITIONS
HONORABLE COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450



DEBBIE ALLEN

DATE OF SUBMISSION: **FEBRUARY 10, 2009**
ELECTRONIC FILING (EFS)

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 C.F.R. 1.137(b)

Dear Honorable Commissioner:

Applicants respectfully request that the above-captioned patent application be revived in accordance with 37 C.F.R. §1.137(b). This application was unintentionally abandoned by a failure to pay the issue fee and publication fee following the Notice of Allowance and Fee(s) Due dated September 22, 2008. The entire delay in paying the issue fee and publication fee from the due date of paying the issue fee and publication fee until the filing of this petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Applicants have included

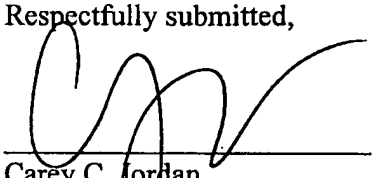
04/22/2009 CKHLOK 00000005 020383 11101762
01 FC:1453 1620.00 DA

with this petition the Fee transmittal form for payment of the issue fee and publication fee. Applicants respectfully request that this application proceed to allowance.

The Commissioner is hereby authorized to debit Baker Botts L.L.P. Deposit Account No. 02-0383, Order Number 063718.0813, in the amount of $1,620.00 to cover the petition fee required under 37 C.F.R. § 1.17(m). Applicants believe that no additional fees are due in association with the filing of this petition. However, should the Commissioner deem that any fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P. Deposit Account No. 02-0383, Order Number 063718.0813, for any underpayment of fees that may be due in association with this filing.

The practitioner, named below, is authorized to file correspondence in the above-identified application pursuant to 37 C.F.R. § 1.34(a).

Respectfully submitted,



Carey C. Jordan
Registration No. 47,646
BAKER BOTTS L.L.P.
910 Louisiana Street
Houston, TX 77002-4995
Telephone: 713.229.1233
Facsimile: 713.229.7833
Email: Carey.Jordan@bakerbotts.com

Date: February 10, 2009

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/22/2010

Applicant	: Kimming So	: DECISION ON REQUEST FOR
Patent Number	: 7627720	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,768	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Matthew K Ryan
Frommer Lawrence & Haug
745 Fifth Avenue
New York NY 10151

COPY MAILED

JUL 3 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Uozumi et al.	:	
Application No. 11/101769	:	DECISION
Filing or 371(c) Date: 04/08/2005	:	ON PETITION
Patent No.: 7288144	:	
Issue Date: 10/30/2007	:	
Attorney Docket No.: 590157-2018	:	

This is a decision on the Request for Certificate of Correction filed November 30, 2007, requesting correction of the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition[2]. Further, Office assignment records reflect that Riso Kagaku Corporation is the assignee of record. 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.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

[2] The processing and Certoficate of Correction fees have been charged to Petitioner's deposit account as authorized in the petition.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

INGRASSIA FISHER & LORENZ, PC
7150 E. CAMELBACK, STE. 325
SCOTTSDALE AZ 85251

COPY MAILED

JUN 04 2007

OFFICE OF PETITIONS

In re Application of :
Wei Zheng :
Application No. 11/101,783 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 033.0022 (AF01665) :

This is a decision on the petition filed May 31, 2007, under 37 CFR 1.313(c)(2), requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance was mailed on April 19, 2007, with the issue fee being due on or before July 19, 2007. The issue fee in this case has not been paid.

37 CFR 1.313(c)(2) provides for withdrawal of an application from issue after payment of the issue fee. In the instant case, as noted above, the issue fee in reply to the Notice of Allowance of April 19, 2007, has not been received. Therefore, the filing of a petition to withdraw this application from issue is unnecessary at this time. The mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center Art Unit 2826.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Gerbera/BSTZ
Blakely Sokoloff Taylor & Zafman LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085

Mail Date: 04/21/2010

Applicant	: Dennis M. O'Connor	: DECISION ON REQUEST FOR
Patent Number	: 7581065	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **286** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Goff Patent Law
8000 NE PARKWAY DR.
Suite 200
VANCOUVER WA 98662

COPY MAILED

AUG 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Cooper et al.	:	
Application No.: 11/101792	:	DECISION ON
Filing or 371(c) Date: 04/07/2005	:	PETITION
Attorney Docket Number: 2896-9	:	

This is a decision in response to the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), filed May 9, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers ("Notice"), mailed May 4, 2005. The Notice required replacement drawings, and set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on July 5, 2007. A Notice of Abandonment was mailed January 13, 2006.

With the present petition, Applicant has filed replacement drawings in response to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay have been filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being forwarded to the Office of Patent Application Processing for processing of the reply, and for continued processing in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

COPY MAILED

FEB 26 2009

OFFICE OF PETITIONS

In re Application of :
Hong-Seok Kim :
Application No. 11/101,799 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 9898-407 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 18, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2).). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 19, 2008. A Notice of Abandonment was mailed December 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application number 12/378,565.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/SDB/

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

Michael G. Fletcher
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

COPY MAILED

FEB 06 2007

OFFICE OF PETITIONS

In re Patent of Meyer et al. :
Application No. 11/101,801 : DECISION GRANTING PETITION
Filing Date: April 7, 2005 : UNDER 37 CFR 1.78(a)(3) AND
Patent No.: 7,120,073 : REQUEST FOR CERTIFICATE OF
Issue Date: October 10, 2006 : CORRECTION
Attorney Docket No. 02-0216.01/FLE/BLT :

This is a decision on the petition, filed November 6, 2006, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 10/230,594, filed May 24, 2005, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed April 7, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may

require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

The $1,370 petition fee and $100 Certificate of Correction fee were incorrectly charged to petitioner's credit card twice. Therefore, the sum of $1,470 has been credited back to the credit card.

Any inquiries concerning this decision may be directed to Charles Steven Brantley at (571) 272-3203.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/101,801	04/07/2005	2827	1300	02-0216.01 (MICS:0096-1)	5	20	3

CONFIRMATION NO. 3763
CORRECTED FILING RECEIPT
OC000000022336920
OC000000022336920

Michael G. Fletcher
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Date Mailed: 02/05/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Russell L. Meyer, Boise, ID;
Ray Beffa, Star, ID;

Power of Attorney:

Michael Lynch--30871
Michael Fletcher--32777
Barry Blount--35069
Robert Van Someren--36038
Patrick Yoder--37479
Charles Brantley II--38086
Ralph Graham--47607
Tait Swanson--48226
Robert Manware--48758

Domestic Priority data as claimed by applicant

This application is a CON of 10/230,594 08/29/2002 PAT 6,898,138

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/101,801

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INTEGRATED CIRCUIT DEVICES HAVING REDUCING VARIABLE RETENTION CHARACTERISTICS

Preliminary Class

365

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15 (b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COPY MAILED

MAY 2 2 2006

OFFICE OF PETITIONS

PAUL, HASTINGS, JANOFSKY & WALKER
P.O. BOX 919092
SAN DIEGO, CA 92191-9092

In re Application of :
Qun Dang et al :
Application No. 11/101,807 : DECISION ON PETITION
Filed: April 7, 2005 : TO WITHDRAW
Attorney Docket No. MET-014XD3T : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed November 14, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys associated with Customer No. **36183**, along with C. Amy Smith, has been revoked by the assignee of the patent application on January 25, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant/assignee or the current attorneys of record.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: BK

cc:

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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

SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

In re Application of :
Dang et al. :
Application No. 11/101,807 :
Filed: April 7, 2005 :
Attorney Docket No. MET-014XDT :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

COOL PATENT, P.C.
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Robert W. Heath JR.	: DECISION ON REQUEST FOR
Patent Number	: 7586873	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,813	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1092** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.: X

DATE : **September 26,2007**

TO SPE OF : ART UNIT **3748**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/101,837** Patent No.: **7179070 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: _____

THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Thomas Denion — 3748

SPE **Art Unit**

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 CFR 1.8
I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents on:

(signature)
Date of signature and transmission 8-20-07

APPROVED FOR ENTRY
T.T. OCT 1, 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: O'Brien, James A. II
Serial No.: 11/101,837
US Pat. No.: 7,179,070
For: VARIABLE CAPACITY PUMP/MOTOR
Customer No.: 43935

RECEIVED
CENTRAL FAX CENTER
AUG 2 0 2007

Certificate
AUG 2 1 2007
of Correction

Commissioner for Patents
Office of Patent Publication
Attention: Certificate of Corrections Branch
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 CFR §1.322(a) and REQUEST FOR ISSUE OF CORRECTED PATENT UNDER 37 CFR §1.322(b)

Honorable Sir:

Applicant/Inventor and Assignee request a Certificate of Correction under 37 CFR §1.322(a) to replace the current Figures 3 and 4 with the originally filed Figures 3 and 4. In an amendment filed on July 31, 2006, Applicant requested permission to add reference numeral 144 to Figure 3. Additionally, Applicant provided extensive amendments to the specification. Support for these amendments included a reference to Figures 3 and 4 of the provisional application from which priority is claimed, which figures are completely different from the figures filed in the nonprovisional application.

In the notice of allowance, the Examiner approved the addition of reference numeral 144 to Figure 3 as the only drawing change to be made. However, during the printing process, Figures 3 and 4 of the provisional application were substituted for original Figures 3 and 4 of the present application.

Applicant/Inventor has provided a Certificate of Correction, Form PTO/SB/44 along with the original Figure 4 and the amended Figure 3, including reference numeral 144, of the present application. Applicant/Inventor requests correction under 37 CFR

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

DUKE W. YEE
P.O. BOX 802333
YEE & ASSOCIATES, P.C.
DALLAS TX 75380

COPY MAILED

MAY 12 2008

OFFICE OF PETITIONS

In re Application of

Kosov, et al.

Application No. 11/101,867

Filed: April 8, 2005

Attorney Docket No. SVL920050016US1

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed March 27, 2008.

The petition is **granted**.

This application was held abandoned October 28, 2007, after no reply was received to the non-final Office action mailed July 27, 2007. The notice set forth a statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on October 28, 2007. A Notice of Abandonment was mailed February 21, 2008. The instant petition was filed on March 27, 2008. Petitioner maintains that the non-final Office action was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 2100, GAU 2161 for further processing including remailing of the non-final Office action purportedly mailed July 27, 2007, and resetting of the time period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO CA 92029

COPY MAILED

FEB 29 2008

In re Application of :

Franz Xaver Zach :
Application No. 11/101,872 : DECISION ON PETITION
Filed: April 9, 2005 : TO WITHDRAW
Attorney Docket No. 799101-1 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 28, 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, ***all applications have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Shepard & Mullin*** 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sheppard Mullin Richter & Hampton LLP**
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448

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

Jerry Richard Potts
3428 Via Ribera
Escondido, CA 92029

COPY MAILED

JUL 1 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Franz Xaver Zach	:	
Application No. 11/101,872	:	DECISION ON PETITION
Filed: April 9, 2005	:	TO WITHDRAW
Attorney Docket No. 041Y-127088	:	FROM RECORD
	:	

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, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Jerry Richard Potts has been revoked by the assignee of the patent application on June 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Sheppard Mullin Richter & Hampton LLP**
333 South Hope Street, 48th Floor
Los Angeles, CA 90071-1448

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

MAILED
FROM DIRECTORS OFFICE

JUL 19 2005

TECHNOLOGY CENTER 3600

Dan M. de la Rosa, Esq.
345 East 80th Street
Suite 27H
New York, NY 10021

In re application of : **DECISION ON PETITION**
Robert A. DeMars : **TO MAKE SPECIAL**
Application No. 11/101,876 : **(PROSPECTIVE MANUFACTURE)**
Filed: April 9, 2005 :
For: PORTABLE BAR WITH DROP-IN COOLERS AND UMBRELLA ASSEMBLY

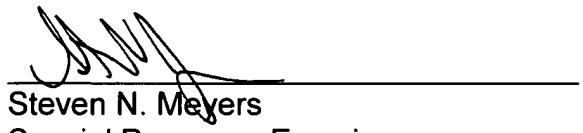
This is a decision on the petition under 37 C.F.R §1.102(d) filed May 02, 2005, to make the above-identified application special. The petition requests that the above-identified application be made special under the procedure set forth in MPEP 708.02, item I: Prospective Manufacture.

MPEP 708.02 states that a Petition to Make Special based on Prospective Manufacture must have the following: (1) the appropriate petition fee under 37 CFR 1.17(h); (2) a statement by the assignee, applicant, or attorney alleging: (A) the possession by the prospective manufacturer of sufficiently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) or that sufficiently available capital and facilities will be made available upon grant of a patent, with the proviso that if the prospective manufacturer is an individual a corroborating statement from a responsible party is required; (B) that the prospective manufacturer will not begin or increase production unless certain that the patent will be granted; (C) that the prospective manufacturer obligates themselves to manufacture the invention in the U.S. in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and (D) that he or she has made a careful and thorough search of the prior art, or has good knowledge of the prior art, and has sent a copy of the references deemed most closely related to the subject matter encompassed by the claims.

The petition filed May 02, 2005 includes all of the requirements above and, therefore, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference and appeal, if any, only if petitioner makes a prompt *bona fide* effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.



Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/rjc : 07/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Dan De La Rosa, Esq.
Suite 27H
345 E. 80th Street
New York NY 10021

COPY MAILED

MAR 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Demars	:	
Application No. 11/101,876	:	DECISION ON PETITION
Filed: April 9, 2005	:	PURSUANT TO
Attorney Docket No.: P-0077US	:	37 C.F.R. § 1.181
Title: PORTABLE BAR WITH DROP-IN COOLERS AND UMBRELLA ASSEMBLY	:	

This is a decision on the petition filed on April 7, 2006, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The Office regrets the period of delay in issuing this decision.

This petition is **DISMISSED.**

The above-identified application became abandoned for failure to submit drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed on November 2, 2005, which set a shortened statutory period for reply of three months[1]. No extensions of time are permitted for transmitting formal drawings[2]. Accordingly, the above-identified application became abandoned on February 3, 2006. A Notice of Abandonment was mailed on March 28, 2006.

The showing in this petition is not sufficient to withdraw the holding of abandonment. Petitioner has asserted that drawings were submitted to the Office, and received by the same, on October 13, 2005. Petitioner has further included a copy of his postcard receipt which evinces that on October 13, 2005, "New Drawings" were received in the Office[3]. Moreover, the electronic

1 The issue and publication fees were timely received on November 30, 2005.
2 See MPEP § 710.02(e).
3 See M.P.E.P. § 503.

file has been reviewed, and it is clear that on October 13, 2005, a copy of Figures 56 and 57 were received in the Office.

However, **the submission of these drawings is not relevant to the abandonment of this application.** These drawings were submitted on October 13, 2005, and the Notice of Allowance and Issue Fee Due was mailed on November 2, 2005. Consequently, the drawings that were submitted prior to the mailing of this notice were clearly not submitted in response to the same.

It does not appear that Petitioner submitted any drawings in response to the Notice of Allowance and Issue Fee Due of November 2, 2005.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Alternatively, Petitioner may submit a petition pursuant to 37 C.F.R. § 1.137(a) and /or (b). If such a petition is filed however, Petitioner will need to submit new drawings[4].

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[5], hand-delivery[6], or facsimile[7].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[8].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

4 See Notice of Draftperson's Patent Drawing Review, mailed concurrently with the Notice of Allowance and Issue Fee Due of November 2, 2005.
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

Dan De La Rosa, Esq.
Suite 27H
345 E. 80th Street
New York NY 10021

COPY MAILED

AUG 0 4 2008

In re Application of	:	
Robert Demars	:	
Application No. 11/101,876	:	DECISION ON PETITION
Filed: April 9, 2005	:	PURSUANT TO
Attorney Docket No.: P-0077US	:	37 C.F.R. § 1.137(B)
Title: PORTABLE BAR WITH DROP-IN COOLERS AND UMBRELLA ASSEMBLY	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed April 14, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to submit drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed on November 2, 2005, which set a shortened statutory period for reply of three months[1]. No extensions of time are permitted for transmitting formal drawings[2]. Accordingly, the above-identified application became abandoned on February 3, 2006. A Notice of Abandonment was mailed on March 28, 2006.

1 The issue and publication fees were timely received on November 30, 2005.
2 See MPEP § 710.02(e).

A petition pursuant to 37 C.F.R. § 1.181 was filed on April 7, 2006, and was dismissed via the mailing of a decision on March 24, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. A terminal disclaimer is not required. The drawings submitted on April 7, 2006 concurrently with the petition pursuant to 37 C.F.R. § 1.181 will serve as the required response. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement is not applicable.

Pursuant to this decision, **the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.**

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Jose Joaquin Aizpuru	: DECISION ON REQUEST FOR
Patent Number	: 7652244	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,884	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARATHON OIL COMPANY
C/O LAW OFFICE OF JACK E. EBEL
165 SOUTH UNION BOULEVARD
SUITE 902
LAKEWOOD, CO 80228

COPY MAILED

SEP 07 2007

OFFICE OF PETITIONS

In re Application of :
John J. Waycuilis :
Application No. 11/101,886 : DECISION GRANTING PETITION
Filed: April 8, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 200306 USA P01 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 5, 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 31, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

For future reference, petitioner is advised to file the petition under 37 CFR 1.313(c) and the request for continued examination under 37 CFR 1.114 should be filed on separate sheets of paper.

Telephone inquiries regarding this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 1764 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

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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
161 N. CLARK ST.
48TH FLOOR
CHICAGO, IL 60601-3213

COPY MAILED

JAN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Jacquelyn R. Simoni	:	DECISION ON PETITION
Application No. 11/101,892	:	TO WITHDRAW
Filed: April 8, 2005	:	FROM RECORD
Attorney Docket No. 64682-00005USPT	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 20, 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 attorney(s) and/or agent(s) were not appointed with customer number 70,001, they were appointed by customer number 30223.

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: **Jacquelyn R. Simoni**
1 South 669 Birchbrook Court
Glen Ellyn, IL 60137

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

Stoel Rives LLP
One Utah Center
Suite 1100
201 South Main Street
Salt Lake City, UT 84111

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of Forsayeth :
Forsayeth et al. :
Application No. 11/101,906 :
Filed: April 8, 2005 :
Attorney Docket No. 51271/53 (1050.US) :
For: Methods and Compositions for :
Treating Neuropathic Pain :

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 November 10, 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).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy (1) and (2).

As to item (1), petitioner assumes three inventors are refusing to sign the declarations based on the failure to receive any response from the inventors. However, the facts indicate the three inventors may have never been given a copy of the application papers or declaration. The

delivery of the papers to the employer, and the employer's response, indicate a substantial chance the employer never supplied the employees with the papers.

Petitioner should send a copy of the application to the residential address for each inventor along with instructions setting a deadline for the return of a signed declaration. The letter should state that, if petitioner receives no reply from the inventor, petitioner will interpret the lack of reply as a refusal to sign the declaration. This sort of ultimatum lends support to a finding of refusal by conduct when a response is not received from an inventor.

As to item (2), the declaration is improper. Unless listed in an Application Data Sheet, the residential address must be listed on the declaration. An ADS has not been submitted and the declaration fails to list a residential address. Petitioner may wish to file a Supplemental Application Data Sheet to correct the errors in the declaration. The Office notes that the term "Supplemental" must be used on the ADS even though an ADS was not previously filed. As stated in MPEP 601.05, "If no ADS was originally filed, but applicant wants to submit an ADS to correct ... application data, the ADS, even though it is the first-filed ADS, must be titled 'Supplemental Application Data Sheet.'"

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stoel Rives LLP
One Utah Center
Suite 1100
201 South Main Street
Salt Lake City, UT 84111

COPY MAILED

JUL 03 2006

OFFICE OF PETITIONS

In re Application of Forsayeth :
Forsayeth et al. :
Application No. 11/101,906 :
Filed: April 8, 2005 :
Attorney Docket No. 51271/53 (1050.US) :
For: Methods and Compositions for :
Treating Neuropathic Pain :

Decision Noting Joinder of Inventor and
Decision Dismissing Any Request for
Status Under 37 CFR 1.47 as Moot

On April 27, 2006, petitioner submitted a declaration signed by the previously non-signing inventors in compliance with 37 CFR 1.63 in response to the decision on petition mailed February 27, 2006.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is unnecessary.

Therefore, the petition is **dismissed as moot**.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue taking steps to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

COPY MAILED

MAR 25 2008

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

In re Application of :
Ranganathan Krishnan et al. :
Application No. 11/101,908 : DECISION ON PETITION
Filed: April 7, 2005 : PURSUANT TO
Attorney Docket Number: : 37 C.F.R. § 1.137(B)
020718C1 :
Title: CHANNEL ESTIMATION :
FOR OFDM COMMUNICATION :
SYSTEMS

This is a decision on the petition filed January 31, 2008, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application.

The petition under 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed July 24, 2007, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting

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.

issue or publication fees[2]. Accordingly, the above-identified application became abandoned on October 25, 2007. A Notice of Abandonment was mailed on November 20, 2007.

With this petition, Petitioner has submitted the petition fee, a Request for Continued Examination (RCE) along with the associated fee, and the proper statement of unintentional delay. No terminal disclaimer is required.

Petitioner has met the second and third requirements of Rule 1.137(b). The fourth requirement is not applicable.

Regarding the first requirement of Rule 1.137(b), the application became abandoned for failure to timely pay the issue and publication fees. In an application for patent abandoned for failure to pay the issue and publication fees, or any portion thereof, the required reply must be the payment of the issue and publication fees, or any outstanding balance thereof. See M.P.E.P. § 711.03(c)(II)(A)(1), which sets forth, *in pertinent part*:

> Thus, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Therefore, the filing of a continuing application without payment of the issue fee or any outstanding balance thereof is not an acceptable reply in an application abandoned or patent lapsed for failure to pay the issue fee or any portion thereof.
>
> ...
>
> In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. Even if an application abandoned for failure to pay the publication fee is being revived solely for purposes of continuity with a continuing application, the petition to revive under 37 CFR 1.137 must include payment of the publication fee.

Therefore, the filing of a RCE pursuant to 37 C.F.R. § 1.114 is not a proper reply under 37 C.F.R. § 1.137 (b)(1). Both the issue and publication fees have been charged to Petitioner's Deposit Account, as authorized in the petition, so as to meet the first requirement of Rule 1.137(b). Neither fee is refundable and may not be applied towards payment of the issue or publication fees in the event that this application is allowed.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of

---

2 See M.P.E.P. § 710.02(e).

this decision, so that the submission under 37 C.F.R. § 1.114 - the Information Disclosure Statement (IDS) filed on January 31, 2008 - can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[3]. All other inquiries concerning the status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

COPY MAILED

JUN 1 1 2007

OFFICE OF PETITIONS

In re Application of :
CHIANG, et al. :
Application No. 11/101,914 : DECISION ON PETITION
Filed: April 8, 2005 : TO WITHDRAW
Attorney Docket No. **2479.2171-011** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to HAMILTON BROOK SMITH & REYNOLDS PC has been revoked by the assignee of the patent application on June 1, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Mónica A. Graves
Petitions Examiner
Office of Petitions

cc: **VOLPE & KOENIG PC**
30 S. 17TH STREET
UNITED PLAZA, SUITE 1600
PHILADELPHIA, PA 19103

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

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: John A. Toebes	: DECISION ON REQUEST FOR
Patent Number	: 7603142	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,918	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **45** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS, IN 46268

COPY MAILED
JAN 27 2010

In re Application of	:	
Zhu et al.	:	
Application No. 11/101,924	:	DECISION ON PETITION
Filed: April 8, 2005	:	
Attorney Docket No. 63,275A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 9, 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 November 30, 2009, as required by the Notice of Allowance and Fee(s) Due mailed July August 28, 2009. Accordingly, the application became abandoned on December 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Massachusetts Institute of Technology
Five Cambridge Center
Kendall Square
Room NE25-230
Cambridge, MA 02142

Mail Date: 04/21/2010

Applicant	: Alexander Rabinovich	: DECISION ON REQUEST FOR
Patent Number	: 7597860	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,926	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1176** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

SEP 12 2005

In re Application of		:	
Stephen Alan Smith et al.		:	
Serial No.	11/101,932	:	DECISION ON PETITION
Filed:	April 8, 2005	:	
For:	ERGONOMIC DISPOSABLE CUP HAVING IMPROVED STRUCTURAL INTEGRITY	:	

This is a decision on the petition to make special filed on August 11, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Wallenstein Wagner & Rockey, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, IL 60606

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

SEP 14 2005

In re Application of		:	
Stephen Alan Smith et al.		:	
Serial No.	11/101,932	:	DECISION ON PETITION
Filed:	April 8, 2005	:	
For:	ERGONOMIC DISPOSABLE CUP HAVING IMPROVED STRUCTURAL INTEGRITY	:	

This is a decision on the petition to make special filed on August 11, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3727 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Gregory G. Schlenz
Wallenstein Wagner & Rockey, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, IL 60606-6630

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

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	: 7573111	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,939	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **783** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Sharad A. Ghosh	: DECISION ON REQUEST FOR
Patent Number	: 7637809	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/101,950	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1032** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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 LAW OFFICES OF KENNETH W FLOAT
2095 HWY 211 NW, #2F
BRASELTON GA 30517

COPY MAILED

FEB 24 2009

OFFICE OF PETITIONS

In re Application of :
Thomas B. Watson, III, :
Application No. 11/101,956 : ON PETITION
Filed: April 8, 2006 :
Attorney Docket No. Y04-014 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed January 26, 2009.

The petition is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

This application became abandoned by operation of law for failure to timely file a response to the non-final Office action mailed May 2, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on August 3, 2008. The Office mailed a Notice of Abandonment on January 23, 2009.

Petitioner contends that he did timely file a reply on May 8, 2008. A review of the reply reveals that it was directed to application No. 11/101,965. In addition, a review of application No. 11/101,965 indicates that the Office did receive a reply on May 8, 2008.

As set forth in the Manual of Patent Examining Procedure § 724.05:

> Where the Office can determine the correct application file that the papers were actually intended for, based on identifying information in the heading of the papers (e.g. application number, filing date, title of invention and inventor(s) name(s)), the Office will transfer the papers to the correct application file for which they were intended without the need of a petition.

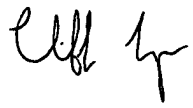
Here, apart from the application number, the response did contain the correct identifying information (specifically the attorney docket number, the inventor, the filing date, and the Examiner's name and Art Unit). Accordingly, it is concluded that the Office could have determined the correct application file for which the response was intended.

In view thereof, the holding of abandonment is withdrawn.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The matter is being forwarded to Group Art Unit 2821 for consideration of the Amendment filed May 8, 2008, a copy of which has been supplied with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Thomas Miller
Motorola, Inc.
1302 E. Algonquiin Road
Schamburg, IL 60196

COPY MAILED

DEC 18 2007

OFFICE OF PETITIONS

In re Application of :
Fehr et al :
Application No. 11/101,960 :
Filed: April 8, 2005 :
Attorney Docket No. IS01872AIC :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 19, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed September 19, 2006. Accordingly, the date of abandonment of this application is December 20, 2006. A Notice of Abandonment was mailed on January 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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.

A request to change the address of record was received on April 10, 2007. However, there is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the persons signing the petition and the request to change the correspondence address of record desire to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. If signed by an assignee, compliance with the provisions of 37 CFR 3.73(b) must be satisfied. While a courtesy copy of this decision is being mailed to the address noted on the request, all future correspondence will be directed to the above address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Office of Data Management for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Continental Automotive Systems
Temic Automotive of North America, Inc.
Patents & Licenses
21440 W. Lake Cook Road, 7TH Floor
Deer Park, IL 60010

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.
11/101,970	04/08/2005	Robert K. Blackstock	127-26-002	4283

23935 7590 12/29/2006

KOPPEL, PATRICK & HEYBL
555 ST. CHARLES DRIVE
SUITE 107
THOUSAND OAKS, CA 91360

EXAMINER	
ZETTL, MARY E	
ART UNIT	PAPER NUMBER
2875	

MAIL DATE	DELIVERY MODE
12/29/2006	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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Koppel, Patrick & Heybl
555 St. Charles Drive
Suite 107
Thousand Oaks, CA 91360

In re Application of: Robert K. Blackstock Application No. 11/101,970 Filed : April 8, 2005 Attorney Docket No. : 127-26-002	: : : : :	PETITION TO ACCEPT COLOR DRAWINGS

Applicant has filed a petition to submit color drawings under 37 CFR 1.84. The invention covers a device and composition which generates colored images, such images having constantly changing colors and patterns which can only be properly represented and demonstrated enablement by color drawings showing examples.

The petition is **granted**.

Telephone inquires should be directed to Sandra L. O'Shea at (571) 272-2378.

Sandra L. O'Shea, Supervisory Patent Examiner
Art Unit 2875, Illumination
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

INTELLECTUAL PROPERTY LAW OFFICES
1901 S. BASCOM AVENUE, SUITE 660
CAMPBELL CA 95008

COPY MAILED

MAY 08 2007

OFFICE OF PETITIONS

In re Application of	:	
Chris J. Rauwendaal	:	
Application No. 11/101,973	:	DECISION ON PETITION
Filed: April 8, 2005	:	UNDER 37 C.F.R. §1.181
Attorney Docket No.: 60419-300601	:	
Title: SCREW EXTRUDER AND EXTRUDER SCREW FOR IMPROVED HEAT TRANSFER	:	

This is a decision on the petition filed February 1, 2007, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed June 21, 2006, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 CFR 1.136(a) were received. Accordingly, the above-identified application became abandoned on July 22, 2006. A Notice of abandonment was mailed on January 9, 2007.

With the present petition, Petitioner has asserted that a response was submitted on July 17, 2006, and has submitted a postcard receipt which contains a date stamp from the Office of Initial Patent Examination dated July 21, 2006.

Petitioner has further submitted a copy of this submission, and it is noted that it contains a certificate of mailing dated July 17, 2006.

The electronic file has been reviewed, and a copy of this response has been located in the same.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted on July 17, 2006, and timely received on July 21, 2006. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response which was received on July 21, 2006 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent Law Office of Larry Guernsey
P.O. Box 720247
San Jose, CA 95172-0247

COPY MAILED

NOV 26 2008

OFFICE OF PETITIONS

In re Application of :
Chris J. Rauwendaal :
Application No. 11/101,973 : ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. 60419-300601 :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 30, 2008, to revive the above-identified application.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Larry B. Guernsey appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The above application became abandoned for failure to file a proper reply to the final Office action mailed January 24, 2008. A Notice of Abandonment was mailed on August 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) under 37 CFR 1.114, with the $405 filing fee and an amendment; (2) the petition fee of $770 and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application is being revived for consideration of the RCE filed on September 30, 2008.

The application file is being referred to Technology Center Art Unit 1791 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Johnathan P. O'Brien, Ph.D
Honigman Miller Schwartz
300 East Michigan Ave
Suite 300
Kalamazoo, MI 49007

COPY MAILED
JAN 27 2010

In re Application of :
Ho, et al. :
Application No. 11/101,983 : ON APPLICATION FOR
Filed: April 8, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 223266-123367 :

This is in response to the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed October 13, 2009. The request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is three hundred eighty (380) days, not zero (0) 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 applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this 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

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

Jonathan P. O''Brien, Ph.D.
Honigman Miller Schwartz and Cohn
350 East Michigan Avenue
Suite 300
Kalamazoo, MI 49007

MAILED

MAY 19 2010

OFFICE OF PETITIONS

In re Patent No. 7,674,768	:	
Ho, et al.	:	DECISION DISMISSING
Application No. 11/101,983	:	REQUEST FOR
Issue Date: March 9, 2010	:	RECONSIDERATION OF
Filed: April 8, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
223266/FAM C US/123367	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d)" filed May 7, 2010, Patentees requests that the determination of patent term adjustment be corrected from four hundred and twenty-three (423) days to four hundred and eighty-eight (488) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 423 days.

No consideration will be given to patentees' assertion that 65 days of adjustment to the patent term should be entered for the alleged failure of the Office to respond within four months to reply filed September 19, 2007. Further to this point, PALM records indicate that the issue fee payment was received in the Office on October 14, 2009. An application for patent term adjustment preceded the payment of the issue fee, yet patentees failed to raise the issue of 65 days of adjustment therein. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended October 14, 2009. Accordingly, relative to the 65 days of reduction to the patent term adjustment entered prior

to the issuance of the patent, it is appropriate to dismiss this petition as untimely filed under § 1.705(b).

Further, consideration under § 1.705(d) is not appropriate. As stated in MPEP 2730, § 1.703(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.

The issue of the 65 day adjustment to the patent term adjustment raised herein should have been timely raised on application for patent term adjustment under § 1.705(b). Thus, the 65 days of adjustment to the patent term adjustment will not be entered.

Patentees presented no argument under 37 CFR 1.705(d) relative to the adjustments and/or reductions which were entered, or should have been entered, pursuant to 37 CFR 1.704(c)(10) or 37 CFR 1.702(b)

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 423 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

COPY MAILED

FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of
Brima Ibrahim et al.
Application No. 11/101,990
Filed: April 8, 2005
Attorney Docket No: **16242US02**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed June 5, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional application 10/074,294 filed February 12, 2002.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney 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 application is being forwarded to Technology Center Art Unit 2611 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
11/101,990	04/08/2005	2611	1500	16242US02	30	3

CONFIRMATION NO. 4919

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000034171772

Date Mailed: 01/22/2009

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)

Brima Ibrahim, Aliso Viejo, CA;
Hea Joung Kim, Irvine, CA;
Henrik Jensen, Long Beach, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/624,012 11/01/2004
and is a CIP of 10/074,294 02/12/2002 PAT 7,154,974

Foreign Applications

If Required, Foreign Filing License Granted: 04/29/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/101,990**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for packet synchronization

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Blakely, Sokoloff, Taylor & Zafman LLP
12400 Wilshire Blvd.
7th Floor
Los Angeles, CA 90025-1026

COPY MAILED

SEP 12 2006

OFFICE OF PETITIONS

In re Application of :

Anil Mukundan et al. :
Application No. 11/101,999 : DECISION ON PETITION
Filed: April 7, 2005 : TO WITHDRAW
Attorney Docket No. 005306.P055C : FROM RECORD
:

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, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Sam Campbell**
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Adam H. Leventhal	: DECISION ON REQUEST FOR
Patent Number	: 7620941	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,009	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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

MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of
McKinley, Petersen & Spray
Application No. 11/102,016
Filed: April 8, 2005
Attorney Docket No. P06890US00
For: METHOD AND SYSTEM FOR SCRIPTED TESTING

: DECISION ACCORDING STATUS
: UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 8, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventor, Judith A. Spray, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Dawn Barker Anderson, counsel for ACT, Inc., assignee of the invention, and the exhibits to the statement of facts establish that the inventor was successfully mailed the application papers, but expressly refused to sign the declaration on July 14, 2005. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Regarding fees, deposit account no. 26-0084 has already been charged a $65.00 late declaration surcharge and a $225.00 two month extension of time fee. The current Rule 47 petition fee is $200.00, not $130.00 as specified in the petition. Deposit account no. 26-0084 will be charged the $200.00 petition fee shortly.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be forwarded to Technology Center G.A.U. 3713 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUDITH A. SPRAY
1704 HOLIDAY BLVD.
IOWA CITY, IA 52240

COPY MAILED

SEP 29 2005

OFFICE OF PETITIONS

In re Application of :
McKinley, Petersen & Spray :
Application No. 11/102,016 :
Filed: April 8, 2005 : LETTER
Attorney Docket No. P06890US00 :
For: METHOD AND SYSTEM FOR SCRIPTED TESTING :

Dear Ms. Spray:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

W.E. Case No. RDM2004-008

Examiner:

Group: 3641 Fax: 571-273-8300

Applicant: Edward J. Lahoda et al

Serial No.: 11/102,024

Filed: April 8th, 2005

Title: HIGH HEAT FLUX RATE NUCLEAR FUEL CLADDING AND OTHER NUCLEAR REACTOR COMPONENTS

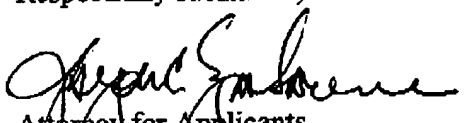
RECEIVED
CENTRAL FAX CENTER
AUG 23 2005

PETITION UNDER 1.76(c)

Applicant hereby respectfully petitions the Commissioner to revise the order of inventorship in the above-identified application to reflect the new order of inventorship as identified on the attached Supplemental Data Sheet.

The Commissioner is hereby authorized to charge the required petition fee and any additional fee included in 37 CFR 1.16 and 1.17 which may be required, or credit any overpayment to Account No. 50-0947.

Respectfully submitted,



Attorney for Applicants
Tele: (412) 374-2282
Facsimile No. 412-374-3832

Date: 8/23/05

J.C. Spadacene:pl
Reg. No. 33,037

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

W.E. Case No. RDM2004-008

Examiner:

Group: 3641 Fax: 571-273-8300

Applicant: Edward J. Lahoda et al

Serial No.: 11/102,024

Filed: April 8th, 2005

Title: HIGH HEAT FLUX RATE NUCLEAR FUEL CLADDING AND OTHER NUCLEAR REACTOR COMPONENTS

RECEIVED
CENTRAL FAX CENTER
AUG 23 2005

PETITION UNDER 1.48(a) CORRECTION OF INVENTORSHIP

I, LARS HALLSTADIUS, hereby petition the Commissioner to be added as an additional inventor in the above-identified application entitled "High Heat Flux Rate Nuclear Fuel Cladding and Other Nuclear Reactor Components", filed April 8, 2005 and assigned application number 11/102,024.

Please note that the error in inventorship occurred without any deceptive intention on my part.

Lars Hallstadius

Date: Aug 19, 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

AUG 2 4 2009

OFFICE OF PETITIONS

MEDICINELODGE INC.
124 SOUTH 600 WEST
LOGAN, UT 84321

In re Application of	:	
Goble et al.	:	
Application No. 11/102,027	:	DECISION ON PETITION
Filed: April 7, 2005	:	
Attorney Docket No. MLI-27	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fees on or before June 30, 2009, as required by the Notice of Allowance and Fee(s) Due mailed March 30, 2009. Accordingly, the application became abandoned on July 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

/SDB/
Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

IMDS, INC.
124 SOUTH 600 WEST
LOGAN, UT 84321

Mail Date: 04/26/2010

Applicant	: E. Marlowe Goble	: DECISION ON REQUEST FOR
Patent Number	: 7594922	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/102,027	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1098** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

GERALD R. BLACK
SUITE 67A
30320 SOUTHFIELD ROAD
SOUTHFIELD, MI 48076

COPY MAILED

JUL 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Black, Gerald R. :
Application No. 11/102,032 : DECISION ON PETITION
Filed: April 11, 2005 :
Title: METHOD FOR IDENTITY :
VERIFICATION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2624 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER
JUN 15 2005

Applicant(s):	Venkat Selvamanickam, et al.		
Title:	JOINED SUPERCONDUCTIVE ARTICLES		
App. No.:	11/102,043	Filed:	April 8, 2005
Examiner:	UNASSIGNED	Group Art Unit:	1751
Atty. Dkt. No.	1014-SP242		

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Sir:

In accordance with Rule 1.102 and MPEP § 708.02 IX entitled "Special Status for Patent Applications Relating to Superconductivity," applicants respectfully request that the above-identified application be accorded special status. The above-identified application contains inventions involving superconductive materials. Accordingly, advancement of the above-identified application is respectfully requested.

No PTO fees are required for consideration and granting of this petition, in accordance with MPEP § 708.02 IX.

Respectfully submitted,

Date 6/15/05

Jeffrey S. Abel, Reg. No. 36,079
Attorney for Applicant(s)
Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746
(512) 327-5515(phone)
(512) 327-5452 (fax)

lead

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC1700

JUN 28 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

APR 16 2008

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of :
Nathan W. **Wright** et al. :
Application No. 11/102,060 : DECISION ON PETITION
Filed: April 08, 2005 :
Attorney Docket No. TI-37863 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply within the meaning 37CFR 1.113 to the Restriction requirement mailed February 12, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 13, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of response to Restriction requirement, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Restriction requirement of November 16, 2007 is accepted as having been unintentionally delayed.

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 2835 for appropriate action by the Examiner in the normal course of business on the reply received.

for David A. Bucci
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

ROBERT A. KENT
P.O. BOX 1431
DUNCAN, OK 73536

COPY MAILED

MAR 1 2 2008

OFFICE OF PETITIONS

In re Application of :
Leopoldo Sierra et al :
Application No. 11/102,062 : ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. 2003-IP-012775U1P1

This is a decision on the petition, filed March 11, 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) and 37 CFR 1.4(c).

Petitioner is advised that the issue fee paid on February 4, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3676 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Corey S. Tumey
Baker Botts, L.L.P.
910 Louisiana Street
Houston, TX 77002-4995

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 06/25/2010

Applicant	: Raymond C. Wallace	: DECISION ON REQUEST FOR
Patent Number	: 7639999	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/102,064	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **793** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 08/04/2010

Applicant	: Feng Cao	: DECISION ON REQUEST FOR
Patent Number	: 7653048	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/102,085	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUINE INTELLECTUAL PROPERTY
LAW GROUP, P.C.
P.O. BOX 458
ALAMEDA, CA 94501

COPY MAILED

JAN 28 2008

OFFICE OF PETITIONS

In re Application of
Werner Kuhr et al.
Application No. 11/102,089
Filed: April 7, 2005
Attorney Docket No. 407T-000311US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed December 13, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Jonathan Alan Quine on behalf of all attorneys/agents associated with customer number 22798. All attorneys/agents associated with customer number 22798 have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the assignee. A courtesy copy of this decision will be mailed to the address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

Applicant is reminded that there is no attorney of record at this time.

There are no outstanding Office actions in this case.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: North Carolina State University
2401 Research Drive
Raleigh, NC 27695-7003

cc: Beyer Weaver, LLP
500 12th Street, Suite 200
Oakland, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/102,089	04/07/2005	Werner Kuhr	407T-000311US

CONFIRMATION NO. 3824

22798
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

POWER OF ATTORNEY NOTICE

OC000000027930408

Date Mailed: 01/25/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/13/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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

COPY MAILED

SEP 18 2007

OFFICE OF PETITIONS

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of	:	
Jason Padeski	:	
Application No. 11/102,092	:	DECISION ON PETITION
Filed: April 8, 2005	:	TO WITHDRAW
Attorney Docket No. MGNC-149	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 7, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on May 25, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Intellectual Property Law Office**
of Joel Voelzke
24772 Saddle Peak Road
Malibu, CA 90285

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

MCHALE & SLAVIN, P.A.
2855 PGA BLVD
PALM BEACH GARDENS, FL 33410

COPY MAILED

OCT 09 2008

OFFICE OF PETITIONS

In re Application of Gentilcore et al. :
Application No. 11/102,110 : Decision on Petition
Filing Date: April 7, 2005 :
Attorney Docket No. 2826U.000 :

This is a decision in response to the petition under 37 CFR 1.183 filed January 16, 2008, which is being treated as a request to waive 37 CFR 1.32(b)(4).

The petition is **granted**.

Facts:

On April 7, 2005, the law firm of McHale & Slavin, P.A., filed the instant application.

The inventors are:

(1) Jose Gentilcore,
(2) Jorge Dindone, and
(3) Marcelo Didone.

The declaration filed April 7, 2005, was executed by all three inventors. The declaration indicated all correspondence should be sent to the Customer Number associated with the law firm.

The application papers did not include a power of attorney.

On April 8, 2005, the law firm filed Application No. 11/101,928 as a continuation-in-part of the instant application.

The inventors for Application No. 11/101,928 are the three inventors for the prior application and Dan Gautier.

The declaration filed with the application papers in Application No. 11/101,928 was executed by all four inventors. The declaration indicated all correspondence should be sent to the Customer Number associated with the law firm.

The application papers filed for Application No. 11/101,928 did not include a power of attorney.

On October 5, 2005, power of attorney forms signed by all four inventors were filed in Application No. 11/101,928. The power of attorney gave power of attorney to the practitioners associated with the law firm's customer number as the practitioners of record.

Due to an inadvertent error, a power of attorney was not executed or filed in Application No. 11/102,110.

On November 13, 2007, the law firm filed a terminal disclaimer to overcome a double patenting objection in Application No. 11/101,928. The terminal disclaimer was entered and accepted. A Notice of Allowance was eventually mailed and Application No. 11/101,928 issued as a patent on April 11, 2008.

On November 13, 2007, the law firm also filed a terminal disclaimer to overcome a double patenting objection in Application No. 11/102,110. However, the terminal disclaimer was not accepted because the attorney who signed the disclaimer is not an attorney of record.

Petitioner has obtained and filed a power of attorney signed by inventor Gentilcore for the instant application. Petitioner has been unable to locate inventor Jorge Didone or inventor Marcelo Didone.

Discussion:

Per 37 CFR 1.32(b)(4), a power of attorney must be signed by the applicant for patent as defined in 37 CFR 1.41(b) or the assignee of applicant's entire interest of the applicant.

37 CFR 1.41(b) states,

> Unless the contrary is indicated the word "applicant" when used in these sections refers to the inventor or joint inventors who are applying for a patent, or to the person mentioned in §§ 1.42, 1.43 or 1.47 who is applying for a patent in place of the inventor.

In the instant case, the power of attorney is deficient because it is signed by only one of the three inventors. In order for the power of attorney to be accepted, the Office must waive the requirement of 37 CFR 1.32(b)(4), and accept the power of attorney with the signature of only one of the three inventors.

A review of the record indicates Jorge Didone and Marcelo Didone signed a declaration indicating all correspondence should be sent to McHale & Slavin for the instant application and Application No. 11/102,110. Jorge Didone and Marcelo Didone voluntarily signed a power of attorney in Application No. 11/101,928. The record fails to indicate any reason to suspect either inventor opposed in any manner the law firm of McHale & Slavin acting on their behalf in both applications.

Acceptance of the power of attorney will result in the terminal disclaimer filed November 13, 2007, now being considered to be properly signed. The terminal disclaimer might result in a "loss" of a portion of the patent term, a failure for any patent to issue based on the application

will result, in essence, of a total loss of any patent term. Therefore, the Office is unaware of any reason to conclude Jorge Didone and Marcelo Didone would oppose entry of the terminal disclaimer.

For the reasons previously discussed, the requirement that the power of attorney be signed by all three inventors is hereby waived and the power of attorney signed only by inventor Gentilcore is hereby accepted. Office records have been changed to indicate the practitioners associated with customer no. 21917 have power of attorney to prosecute the instant application.

The petition requests waiver of 37 CFR 1.321(c)(2) which requires the terminal disclaimer be signed in accordance with 37 CFR 1.321(b)(1) when filed in a patent application. 37 CFR 1.321(b)(1) indicates, unless an assignee exists, a terminal disclaimer must be signed by either all the applicants or an attorney or agent of record.

Since the Office has accepted the power of attorney filed with the petition, Keith Campbell is now an attorney of record and waiver of 37 CFR 1.321(c)(2) is unnecessary. Therefore, to the extent the petition requests waiver of 37 CFR 1.321(c)(2), the petition is dismissed as moot.

The last paragraph on page 4 of the petition states, "Alternatively, it is requested that the requirement for a terminal disclaimer ... be withdrawn." The word "alternatively" appears to indicate petitioner is only requesting the Office determine if the terminal disclaimer should be withdrawn if the terminal disclaimer filed with the signature of attorney Keith Campbell is not accepted. Since the Office has determined Keith Campbell has the authority to sign a terminal disclaimer in the instant application, the Office need not address the propriety of the requirement for a terminal disclaimer.

The petition was filed in part as a petition under 37 CFR 1.47. However, 37 CFR 1.47 only applies when an inventor has never signed a declaration. Therefore, the petition under 37 CFR 1.47 is dismissed as moot.

Petitioner filed a total of $260 for petition fees. However, the fee for a petition under 37 CFR 1.183 is $400. Therefore, an additional $140 has been charged to petitioner's deposit account.

Technology Center Art Unit 3723 will be informed of the instant decision and the application, including the papers filed January 16, 2008, 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/12/2010

TO SPE OF : ART UNIT 3733 (3700)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/102,112 Patent No.: 7,624,943

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

_____

_____

_____

SPE /Eduardo C. Robert/ **ART UNIT** 3733

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF SCOTT C HARRIS
PO BOX 1389
RANCHO SANTA FE CA 92067

COPY MAILED

NOV 29 2007

OFFICE OF PETITIONS

In re Application of :
Espy, et al. :
Application No. 11/102,115 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. 21323-003001 :

This is a decision on the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed January 24, 2007.

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 September 11, 2006. This notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on December 12, 2006. The Office mailed a Notice of Abandonment on January 5, 2007.

With the instant petition, applicant paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.

The matter 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

SCANI **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/6/07

TO SPE OF : ART UNIT 1734

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/102127 Patent No.: 7,160,403

Please respond to this request for a certificate of correction within 7 days.

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

HENRY RANDALL
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: OK to Enter

GREGORY MILLS
~~QUALITY ASSURANCE SPECIALIST~~
SPE

1702
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Brima Ibrahim	: DECISION ON REQUEST FOR
Patent Number	: 7599662	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,123	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **379** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/18/2010

Applicant : Brima Ibrahim
Patent Number : 7599662
Issue Date : 10/06/2009
Application No: 11/102,123
Filed : 04/08/2005

: 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 **412** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PORTER WRIGHT MORRIS & ARTHUR
ATTN: INTELLECTUAL PROPERTY DEPT
41 SOUTH HIGH ST
28TH FLOOR
COLUMBUS OH 43215-6194

COPY MAILED
DEC 20 2005
OFFICE OF PETITIONS

In re Application of :
John Joseph McDonald, Bruce Daniel : DECISION ACCORDING STATUS
Kingsbury : UNDER 37 CFR 1.47(a)
Application No. 11/102,129 :
Filed: April 8, 2005 :
Attorney Docket No. 3993968-150413

This is in response to the petition under 37 CFR 1.47(a), filed November 14, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

Petitioner has shown that non-signing inventor Bruce Daniel Kingsburgy was unable to be located after a copy of the application papers was mailed to his last known address and returned as undeliverable.

The above-identified application and papers have been reviewed and found to be in compliance with 37 CFR 1.47(a). Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status. As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The $200 fee set forth in 37 CFR 1.17(g) has been charged to Deposit Account No. 16-2326, as authorized.

The application file is being forwarded to Group Art Unit 2855 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRUCE DANIEL KINGSBURY
702 SOUTH 37TH ST
HATTIESBURG MS 39402

COPY MAILED

DEC 20 2005

OFFICE OF PETITIONS

In re Application of :
John Joseph McDonald, Bruce Daniel :
Kingsbury :
Application No. 11/102,129 :
Filed: April 8, 2005 : LETTER
Title: Tire Carrier Disk Clutch

Dear Mr. Kingsbury:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, agent of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo
Petitions Attorney
Office of Petitions

Richard M. Mescher
Porter Wright Morris & Arthur
41 South High Street
Columbus, OH 43215-6194

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

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA, CA 95050

COPY MAILED

OCT 0 8 2008

OFFICE OF PETITIONS

In re Application of :
Chen-Ta Hung, et. al. :
Application No. 11/102,151 : ON PETITION
Filed: April 7, 2005 :
Attorney Docket No. N/A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 5, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of May 2, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is August 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2821 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian Brown
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

CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
34TH FLOOR
500 WEST MADISON ST.
CHICAGO IL 60661

COPY MAILED

FEB 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Hea Joung Kim et al. :
Application No. 11/102,157 : DECISION ON PETITION
Filed: April 8, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No: **16254US02** :

This is a decision on the petition under 37 CFR 1.78(a)(3) filed June 5, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional application 09/993,541 filed November 14, 2001.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney 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 application is being forwarded to Technology Center Art Unit 2611 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed application.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
11/102,157	04/08/2005	2611	1350	16254US02	24	3

CONFIRMATION NO. 6854

CORRECTED FILING RECEIPT

CHRISTOPHER C. WINSLADE
McANDREWS, HELD & MALLOY, LTD.
34th Floor
500 West Madison St.
Chicago, IL 60661

OC00000034167930

Date Mailed: 01/22/2009

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)

Hea Joung Kim, Irvine, CA;
Brima Ibrahim, Aliso Viejo, CA;
Henrik Tholstrup Jensen, Long Beach, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/624,011 11/01/2004
and is a CIP of 09/993,541 11/14/2001 PAT 6,907,089

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/102,157**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for adjusting DC offset slice point in an RF receiver

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG, IL 60196

COPY MAILED

JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of :
Jie Zhang et al. :
Application No. 11/102,166 : DECISION ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. CML00267T D01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed December 18, 2006, which set a shortened statutory period for reply of 30 days. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 19, 2007. A Notice of Abandonment was mailed on June 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 an amendment after non-final, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2813 for appropriate action by the Examiner in the normal course of business on the reply received October 3, 2007.

David Bucci
Petitions Examiner
Office of Petitions

cc: Renee Michelle Leveque
221 E. Church Street
Frederick, MD 21701

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD FL 33022

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Maria Eugenia Meza :
Application No. 11/102,174 : DECISION ON PETITION
Filed: April 11, 2005 : UNDER 37 C.F.R. § 1.137(A)
Title: LADDER HANDLE :

This is a decision on the petition submitted on June 5, 2007 pursuant to 37 C.F.R. § 1.137(a)[1].

The preveniently submitted Revocation of Power of Attorneys with New Power of Attorney and Change of Correspondence Address has been entered and made of record.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 18, 2006, which set a shortened statutory period for

1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. §1.20(d)) required pursuant to paragraph (d) of this section.

reply of three months. No extensions of time were requested, and no response was received. Accordingly, the above-identified application became abandoned on November 19, 2006. A notice of abandonment was mailed on April 5, 2007.

A discussion follows.

THE RELEVANT STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[2]

The burden of showing the cause of the delay is on the person seeking to revive the application[3].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[4]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[5]

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 either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[6].

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important

---

2 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

3 Id.

4 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

5 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

6 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[7].
A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[8]."

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[9]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133[10].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[11]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[12]."

---

7 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
9 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; 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. 103, 131 (Comm'r Pat. 1891).
11 Link at 633-634.
12 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[13].

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[14]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[15]."

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

Section 134 of the C.F.R., sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

Section 135 of the C.F.R., sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to

13 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).
14 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
15 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

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.

Section 406 of the MPEP, sets forth, *in toto*:

> The power of a principal patent practitioner will be revoked or terminated by his or her death. Such a revocation or termination of the power of the principal patent practitioner will also terminate the power of those appointed by him or her. Thus, a principal patent practitioner may appoint an associate patent practitioner (effective June 25, 2004, the associate power of patent practitioner practice has been eliminated) but such a power terminates with that of the principal. The principal patent practitioner may not appoint a "substitute" and any attempt by the principal to appoint a "substitute" patent practitioner whose power is intended to survive his or her own will not be recognized by the Office.
>
> If notification is received from the applicant or assignee of the death of the sole principal patent practitioner and the application is up for action by the examiner, correspondence is held with the applicant or assignee who originally appointed the deceased patent practitioner.
>
> If notification is received from the office of the deceased attorney and the application is up for action, the examiner when preparing the Office action should add form paragraph 4.02.

ANALYSIS

With the present petition, Petitioner has submitted an amendment and the petition fee. Petitioner has thus met requirements (1) and (2) of Rule § 1.137(a).

The fourth requirement of Rule § 1.137(a) is not applicable[16], and as such, a terminal disclaimer was not required. However it is noted that Petitioner has submitted a terminal disclaimer concurrently with this petition. Should Petitioner wish to seek the withdrawal of this submission, a petition pursuant to Rule § 1.182 will be required.

The **failure to meet the third requirement of Rule § 1.137(a)** will be discussed below.

---

16 See Rule § 1.137(d).

With the present petition, Petitioner has asserted that Mr. Kauder, the former attorney of record, died eleven days before the mailing of the above-mentioned non-final Office action. In order to evince this assertion, Petitioner has included a copy of Mr. Kauder's obituary.

Petitioner has further attested that Applicant did not learn of this Office action until "June 2007 when relatives of Mr. Kauder mailed her the Action." However, **it does not appear that Petitioner has firsthand knowledge** of these assertions, and it does not appear that a statement of facts has been provided from the Applicant. As such, this assertion cannot be accepted.

Assuming arguendo that these assertions could be accepted, Petitioner has not established that the entire period of delay was unavoidable.

Petitioner has asserted that the attorney of record passed on, and the Office action that was mailed shortly thereafter was not received by the Applicant until the relatives of the deceased mailed it to her, ten months later.

First, it is not clear whether Mr. Kauder was a **solo practitioner.**

If Petitioner was a solo practitioner, it is not clear whether he had any steps in place to **ensure the responsible handling of his clients' matters should he become incapacitated.** However, the fact that the mailing was allowed to remain in his Office for almost a year before his relatives forwarded the same to Applicant strongly suggests that Mr. Kauder had no such steps in place. If no such steps were in place, this does not appear to be the actions of a prudent and careful man who acted in relation to his most important business. If such steps were in place, why was this mailing allowed to remain in his Office for such an extended period of time?

If Mr. Kauder was not a solo practitioner, it not clear what prevented the **other members of his firm** from handling his responsibilities subsequent to his passing.

Either way, it appears that nobody handled the professional affairs of Mr. Kauder subsequent to his permanent incapacitation, and this matter was merely placed on hold until his relatives intervened to forward the Office communication to Applicant. What system, if any, was in place to handle the matters of his clients should he become incapacitated?

It is noted that the delay of ten months for the process of transferring materials to the client does not seem to be consistent with the actions of one who acted **in relation to his most important business.**

Similarly, Petitioner has not shown that the failure to respond to the relevant Office communication could not have been avoided with the **exercise of due care.** Whether such action by the attorney constituted a breach of the fiduciary duty of care, is of no moment to the issue of whether the entire period of delay was unavoidable[17].

Secondly, it is not clear how often Applicant **monitored** the performance of her agent. Moreover, **was it unusual for her not to hear from him for long periods of time**? Similarly, did Applciant traditionally receive **updates** from her representative during prosecution? If so, **how frequently**? Furthermore, how was Applicant **billed**?

On renewed petition, Petitioner will need to address each of these issues, if it is to be established that the entire period of delay was unavoidable.

Petitioner is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

CONCLUSION

Pursuant to the discussion above, the petition is **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. § 1.137(a)". 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[18, 19].

---

17 See Haines v. Quigg, 5 USPQ2d 1130 (N.D. Ind. 1987)(the court, in affirming an Office decision denying revival of an application on the basis of unavoidable delay, stated: "If the attorney somehow breached his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to overlook [attorney's] action or inaction with regard to the patent application.")

18 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

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[20], hand-delivery[21], or facsimile[22]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[23].

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

---

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.

19 If, on the 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.

20 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

21 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

22 (571) 273-8300- please note this is a central facsimile number.

23 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[24]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: David W. Barman
2445 Hollywood Boulevard
Hollywood, FL 33020

24 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD FL 33022

COPY MAILED

DEC 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Maria Eugenia Meza	:	DECISION ON RENEWED
Application No. 11/102,174	:	PETITION PURSUANT TO
Filed: April 11, 2005	:	37 C.F.R. § 1.137(A) AND
Title: LADDER HANDLE	:	PETITION PURSUANT TO
	:	37 C.F.R. § 1.137(B)

This is a decision on the renewed petition submitted on November 13, 2007 pursuant to 37 C.F.R. § 1.137(a)[1], as well as the concurrently submitted petition pursuant to 37 C.F.R. § 1.137(b)[2] Petitioner will note that 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

1 A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. §1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

2 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.

information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 18, 2006, which set a shortened statutory period for reply of three months. No extensions of time were requested, and no response was received. Accordingly, the above-identified application became abandoned on November 19, 2006. A notice of abandonment was mailed on April 5, 2007.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 5, 2007, and a decision was mailed on September 12, 2007.

A discussion follows.

The petition pursuant to 37 C.F.R. § 1.137(a)

THE RELEVANT STANDARD

Nonawareness of a PTO rule will not constitute unavoidable delay[3]

The burden of showing the cause of the delay is on the person seeking to revive the application[4].

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[5]

---

3 See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

4 Id.

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[6]

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 either the applicant's reliance upon oral advice from USPTO employees or the USPTO's failure to advise the applicant to take corrective action[7].

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[8]."

The Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions[9]. Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133[10].

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[11]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[12]."

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person

---

5 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

6 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).
8 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.
9 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Haines, 673 F.Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32; 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. 103, 131 (Comm'r Pat. 1891).
11 Link at 633-634.
12 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).

standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present[13].

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[14]."

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[15]."

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

Section 134 of the C.F.R., sets forth, *in toto*:

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

Section 135 of the C.F.R., sets forth, *in toto*:

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
(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

---

13 In re Mattullath, 38 App. D.C. at (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).
14 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.
15 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

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.

Section 406 of the MPEP, sets forth, *in toto*:

> The power of a principal patent practitioner will be revoked or terminated by his or her death. Such a revocation or termination of the power of the principal patent practitioner will also terminate the power of those appointed by him or her. Thus, a principal patent practitioner may appoint an associate patent practitioner (effective June 25, 2004, the associate power of patent practitioner practice has been eliminated) but such a power terminates with that of the principal. The principal patent practitioner may not appoint a "substitute" and any attempt by the principal to appoint a "substitute" patent practitioner whose power is intended to survive his or her own will not be recognized by the Office.
> If notification is received from the applicant or assignee of the death of the sole principal patent practitioner and the application is up for action by the examiner, correspondence is held with the applicant or assignee who originally appointed the deceased patent practitioner.
> If notification is received from the office of the deceased attorney and the application is up for action, the examiner when preparing the Office action should add form paragraph 4.02.

ANALYSIS

With the original petition, Petitioner has submitted an amendment and the petition fee. Petitioner met requirements (1) and (2) of Rule § 1.137(a). The fourth requirement of Rule § 1.137(a) was not applicable.

Regarding the third requirement of Rule § 1.137(a), in the original petition, Petitioner attested, over his registration number, that Applicant did not learn of this Office action until "June 2007 when relatives of Mr. Kauder mailed her the Action." As such, Petitioner had set forth that the inventor learned of the passing of her representative shortly before the filing of the original petition on June 5, 2007. The original petition, however, did not reveal when the Applicant learned of the passing of her representative.

In this renewed petition, the Applicant has set forth "in December 2006, I learned Mr. Kauder had passed away[16]." As such, on renewed petition, it is clear that the Applicant learned of the passing of her representative six months before the filing of the original petition.

---

16 Meza statement of facts, paragraph 5. See also Meza statement of facts, paragraph 11 and Nina Kauder statement of facts, paragraph 8.

During these six months, it does not appear that Applicant took an action in relation to this application[17]. During this period of time, it does not appear that Applicant reviewed the electronic file online, updated the correspondence address with the Office, or retained replacement counsel. Had any of these actions been undertaken, it seems likely that this application would have been revived earlier.

These do not appear to be the actions of a reasonable and prudent person who acted in relation to her most important business, and as such, it does not appear that Petitioner will be able to establish that the entire period of delay was unavoidable.

Pursuant to the discussion above, the petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED**.

The petition pursuant to 37 C.F.R. § 1.137(b)

The fee for filing a petition to revive an unintentionally abandoned application under 37 C.F.R. § 1.137(b) is set forth in 37 C.F.R. § 1.17(m) as being $1540 for a large entity and $770 for a small entity. Petitioner has not submitted the required fee, but rather has offered to submit this fee at a later time.

The payment of the required petition fee is a prerequisite to the filing of a petition to revive under 37 C.F.R. § 1.137. Therefore, consideration of the merits of the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[18]

In view of the above, this petition pursuant to 37 C.F.R. § 1.137(b) must be **DISMISSED**.

Regarding Petitioner's request for the Office to apply the petition fee that was paid for the petition pursuant to Rule

---

17 Meza statement of facts, paragraph 12. See also Nina Kauder statement of facts, paragraph 9.

18 "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. § 1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee."

§ 1.137(a) towards the petition pursuant to Rule § 1.137(b), this request cannot be granted, as petition fees are jurisdictional[19].

CONCLUSION

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. § 1.137(a) and/or (b)". 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[20, 21].

Petitioner's only relief is a petition under 37 C.F.R. §1.137(b), and - having been made aware of this reality - any delay in promptly seeking relief under 37 C.F.R. § 1.137(b) may be considered evidence of intentional delay and an absolute bar to revival.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[22], hand-delivery[23], or facsimile[24]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[25].

---

19 See Rule § 1.137(a)(2) and Rule § 1.137(b)(2).

20 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.

21 If, on the 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.

22 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

23 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

24 (571) 273-8300- please note this is a central facsimile number.

25 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[26]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: David W. Barman
2445 Hollywood Boulevard
Hollywood, FL 33020

---

26 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD FL 33022

COPY MAILED

FEB 19 2008

OFFICE OF PETITIONS

In re Application of :
Maria Eugenia Meza :
Application No. 11/102,174 :
Filed: April 11, 2005 :
Title: LADDER HANDLE :

DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the renewed petition submitted on January 10, 2008., pursuant to 37 C.F.R. § 1.137(b) [1], to revive this application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 18, 2006, which set a shortened statutory period for

---

1 A grantable petition pursuant to 37 C.F.R § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

reply of three months. No extensions of time were requested, and no response was received. Accordingly, the above-identified application became abandoned on November 19, 2006. A notice of abandonment was mailed on April 5, 2007.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on June 5, 2007, and a decision was mailed on September 12, 2007. Both a renewed petition pursuant to 37 C.F.R. § 1.137(a) and an original petition pursuant to 37 C.F.R. § 1.137(b) were concurrently filed on November 13, 2007, and each was dismissed via the mailing of a decision on December 11, 2007.

With this renewed petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. An amendment was received with the original petition pursuant to 37 C.F.R. § 1.137(a). A terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was submitted on June 5, 2007 can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries

---

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

concerning the status of the application should be directed to the Technology Center

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: David W. Barman
2445 Hollywood Boulevard
Hollywood, FL 33020

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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/23/2010

Applicant	: Satyadev R. Patel	: DECISION ON REQUEST FOR
Patent Number	: 7655492	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/102,183	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/07/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

COPY MAILED
SEP 04 2008

In re Application of	:	
Patel et al.	:	
Application No. 11/102,187	:	DECISION ON PETITION
Filed: April 7, 2005	:	
Attorney Docket No. TI-63028	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 30, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item 1.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 31, 2007. A Notice of Abandonment was mailed March 19, 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)(III)(A)(2). Since the amendment after final, submitted October 29, 2007, did 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 Joan Olszewski at (571) 272-7751.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

DEC 14 2007

OFFICE OF PETITIONS

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

In re Application of	:	
Joshi DEVENDRA	:	
Application No. 11/102,206	:	DECISION ON PETITION
Filed: April 9, 2005	:	TO WITHDRAW
Attorney Docket No. 799102-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 29, 2007.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "a practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office." More specifically, 37 CFR 10.40 states, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, All applications have been assigned to Cadence and all files have been turned over to Daniel Yannuzzi of the firm Sheppard & Mullin, does not meet any of the conditions set forth in 37 CFR 10.40, Cadence's identity is not clear.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: SHEPPARD MULLIN RICHTER &
HAMPTON, LLP
333 SOUTH HOPE STREET, 48TH FLOOR
LOS ANGELES, CA 90071-1448

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

JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

COPY MAILED

FEB 0 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Devendra JOSHI	:	
Application No. 11/102,206	:	DECISION ON PETITION
Filed: April 9, 2005	:	TO WITHDRAW
Attorney Docket No. 799102-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 22, 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 Jerry R. Potts on behalf of all attorneys of record who are associated with customer No. 33651.

All attorneys/agents associated with Customer Number 33651 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee at the first copied address below until otherwise properly notified by the applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: INVARIUM, INC.
1754 TECHNOLOGY DRIVE,
SUITE 117
SAN JOSE, CA 95110

cc: SHEPPARD, MULLIN, RICHTER
& HAMPTON, LLP
12275 EL CAMINO REAL
SAN DIEGO, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/102,206	04/09/2005	Devendra Joshi	799102-1

CONFIRMATION NO. 7478

33651
JERRY RICHARD POTTS
3248 VIA RIBERA
ESCONDIDO, CA 92029

POWER OF ATTORNEY NOTICE

OC000000028118676

Date Mailed: 02/05/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/22/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE CA 95157

COPY MAILED
SEP 29 2008

In re Application of	:	
W. Fritz Kruger et al.	:	
Application No. 11/102,210	:	
Filed: April 7, 2005	:	DECISION ON PETITION
Attorney Docket No. ATEC.P002	:	PURSUANT TO
Title: METHOD AND APPARATUS	:	37 C.F.R. § 1.137(B)
FOR FRAGMENT PROCESSING IN A	:	
VIRTUAL MEMORY SYSTEM	:	
	:	

This is a decision on the petition filed May 15, 2008, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 31, 2008, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees.[1] Accordingly, the above-identified application became abandoned on May 2, 2008. A Notice of

1 See MPEP § 710.02(e).

Abandonment was mailed on June 20, 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 included the petition, issue, and publication fees, along with the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

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

concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PRICE & ADAMS, P.C.
4135 BROWNSVILLE ROAD
P.O. BOX 98127
PITTSBURGH PA 15227-0127

MAILED

JUL 19 2010

OFFICE OF PETITIONS

In re Application of :
Scott Authur William Muirhead :
Application No. 11/102,221 : DECISION ON PETITION
Filed: April 8, 2005 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 28, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit a substitute oath and declaration, as required by the Notice of Allowability, mailed November 30, 2009. Accordingly, the date of abandonment of this application is March 2, 2010. A Notice of Abandonment was mailed on April 13, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a substitute oath and declaration, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, oath and declaration is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOWREY LLP
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR
SUITE 200 & 300
FALLS CHURCH VA 22042-2924

COPY MAILED

OCT 12 2005

OFFICE OF PETITIONS

In re Application of Wang, et al. Application No. 11/102,226 Filed: April 7, 2005 Attorney Docket No. 07783.0165.NPUS01	: : : : : :	DECISION ON PETITION

This is a decision on the papers titled "PETITION REGARDING FILING DATE" and "REQUEST FOR REFUND", filed May 17, 2005[1], which is properly treated as a petition under 37 CFR 1.182 requesting that the above-identified application be accorded a filing date of April 17, 2005.

The instant application was deposited on April 7, 2005, claiming the benefit of priority to application 60/624,126. However, the instant application omitted a copy of the drawings. Accordingly, on May 10, 2005, the Office of Initial Patent Examination properly mailed a "Notice of Incomplete Nonprovisional Application", requiring drawings and stating that the filing date would be the date of receipt of the drawings.

---

[1] The petition was resupplied in a facsimile transmission filed September 14, 2005. Accompanying the transmittal was a postcard receipt establishing that the petition was previously filed on May 17, 2005.

In response, applicants filed the present petition on May 17, 2005, together with a copy of the omitted drawings. Petitioners do not dispute the fact that no drawings were filed in the instant application. Rather, petitioners point out that they incorporated application 60/624,126 by reference in the specification.

With respect to the practice of incorporation by reference, the Manual of Patent Examining Procedure states:

> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will not be entitled to a filing date. **A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application.** An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered.[2]

Incorporation by reference is intended as a safeguard to protect an applicant who in a continuation or divisional application has omitted a "portion" of the application on filing.[3] Here, applicants omitted drawings in their entirety. As at least one drawing was necessary to accord the instant application a filing date, no filing date was able to be accorded at the time of filing. However, petitioners properly incorporated application 60/624,126 by reference. In addition, petitioners submitted the omitted drawings together with an amendment and included an authorization to charge the $400 petition fee to their deposit account. Accordingly, the application is entitled to a filing date of April 7, 2005.

In view thereof, the petition is **GRANTED**.

As the present petition was not necessitated by PTO error, petitioners's "REQUEST FOR REFUND" is **DISMISSED**.

The $400 petition fee has been charged to Deposit Account No. 08-3038, as authorized.

---

[2] MPEP 201.06(c) (emphasis added).

[3] See id.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of April 7, 2005, using the application papers received in the Office on that date and the one (1) sheet of drawings supplied on petition filed May 17, 2005. Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries specific to this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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

HARMAN - BRINKS HOFER CHICAGO
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago IL 60610

MAILED

MAY 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Rajeev Nongpiur, et al.	:	
Application No. 11/102,251	:	DECISION GRANTING PETITION
Filed: April 8, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11336/884 (P05055USP)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 8, 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 23, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement and amendment.

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.*

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

HARMAN - BRINKS HOFER CHICAGO
Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

Mail Date: 04/21/2010

Applicant	: Rajeev Nongpiur	: DECISION ON REQUEST FOR
Patent Number	: 7610196	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,251	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1099** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Jose Joaquin Aizpuru	: DECISION ON REQUEST FOR
Patent Number	: 7643756	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,290	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **983** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 05/18/2010

Applicant : Jose Joaquin Aizpuru
Patent Number : 7643756
Issue Date : 01/05/2010
Application No: 11/102,290
Filed : 04/08/2005

: 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 **1015** 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

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

INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Zia R. Khan	: DECISION ON REQUEST FOR
Patent Number	: 7619977	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,296	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **318** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

COPY MAILED

DEC 2 2 2009

OFFICE OF PETITIONS

In re Application of :
Edward J. VASEL et al. :
Application No. 11/102,297 : DECISION ON PETITION
Filed: April 08, 2005 : TO WITHDRAW
Attorney Docket No. **81480 7304** : FROM RECORD
:

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 02, 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 Thomas Lebens on behalf of all attorneys of record who are associated with customer No. 22242. All attorneys/agents associated with the Customer Number 22242 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

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 30, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Petitions Examiner
Office of Petitions

cc: **EDWARD J. VASEL**
12843 CORBET COURT
SAN DIEGO CA 92130

cc: **PEPPERBALL TECHNOLOGIES, INC.**
6142 NANCY RIDGE DRIVE, SUITE 101
SAN DIEGO CA 92121

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

WHIRLPOOL PATENTS COMPANY - MD 0750
Suite 102
500 Renaissance Drive
St. Joseph, MI 49085

Mail Date: 04/21/2010

Applicant	: Douglas D. LeClear	: DECISION ON REQUEST FOR
Patent Number	: 7665326	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,321	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1356** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/102,353	04/07/2005	3742	1000	31983-Util-Q	3	14	2

CONFIRMATION NO. 6427

005179
PEACOCK MYERS, P.C.
P O BOX 26927
ALBUQUERQUE, NM 87125-6927

CORRECTED FILING RECEIPT

OC000000016969169

Date Mailed: 09/08/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael Manning, Denver, CO;

Assignment For Published Patent Application

The Quiznos Master, LLC, Denver, CO

Power of Attorney: The patent practitioners associated with Customer Number **005179**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/521,355 04/08/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/102,353

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Impingement oven with radiant heating

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GLOBAL PATENT GEOUP – KAL
ATTN: MS LAVERN HALL
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS, MO 63131

COPY MAILED

DEC 14 2007

OFFICE OF PETITIONS

In re Application of :
Cunxiang ZHAO, et al :
Application No. 11/102,356 : DECISION ON PETITION
Filed: April 7, 2005 : TO WITHDRAW
Attorney Docket No. K0006-201-US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 11, 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).

Raymond J. Ho has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

COUDERT BROTHERS LLP
ONE MARKET SPEAR TOWER
SUITE 2100
SAN FRANCISCO, CA 94105

COPY MAILED

JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Hesse et al. :
Application No. 11/102,386 :
Filed: April 7, 2005 : ON PETITION
Attorney Docket No. 20865-03 :

This is a decision on the Petition Under 37 CFR 1.53(a) in Response to "Notice of Incomplete Nonprovisional Application" - to Establish Receipt of Drawings Allegedly Not Deposited, filed May 31, 2005, requesting the above-identified application be accorded a filing date of April 7, 2005, including 1 sheet of drawings.

The application was filed on April 7, 2005. On May 13, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that 1 sheet of drawings (Figs. 1-6), was originally filed with the application on April 7, 2005, and was received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 1 sheet of drawings (Figs. 1-6), in the above-identified application by this Office on September 2, 2004.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 1 sheet of drawings (Figs. 1-6) in the above-identified application by this Office on April 7, 2005.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of 1 sheet of drawings (Figs. 1-6), filed with the instant petition on May 31, 2005, will be used for examination purposes.

A refund of the petition fee has been credited to deposit account 13-0201, as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of April 7, 2005, and an indication that 1 sheet of drawings (Figs. 1-6), was present on filing, using the 1 sheet of drawings filed with the instant petition on May 31, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
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

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Ronald Kronenberger	: DECISION ON REQUEST FOR
Patent Number	: 7614090	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,388	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/08/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **895** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

COPY MAILED

APR 19 2007

OFFICE OF PETITIONS

HOWISON & ARNOTT LLP
P. O. BOX 741715
DALLAS, TX 75374-1715

In re Patent No. 7,123,208 : DECISION GRANTING PETITION
Issue Date: October 17, 2006 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 11/102,390 : REQUEST FOR CERTIFICATE OF
Filed: April 8, 2005 : CORRECTION
Attorney Docket No. FRAC-27,116 :

This is a decision on the petition under 37 CFR 1.78(a)(3) seeking to add a claim for benefit of priority under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/ES99/00296, filed September 20, 1999, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed April 8, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed international application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed international application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. **A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.**

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

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
10/963,080	10/12/2004	2821	1315	FRAC-27,266	38	1

CONFIRMATION NO. 2004

CORRECTED FILING RECEIPT

25883
HOWISON & ARNOTT, L.L.P
P.O. BOX 741715
DALLAS, TX 75374-1715

OC000000023463792

Date Mailed: 04/19/2007

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)

Carles Puente Baliarda, Barcelona, SPAIN;
Carmen Borja Borau, Barcelona, SPAIN;
Jaume Anguera Pros, Vinaros, SPAIN;
Jordi Soler Castany, Mataro, SPAIN;

Power of Attorney: The patent practitioners associated with Customer Number **25883**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/102,568 03/18/2002 ABN
which is a CON of PCT/ES99/00296 09/20/1999

Foreign Applications

If Required, Foreign Filing License Granted: 11/22/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/963,080

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

MULTILEVEL ANTENNAE

Preliminary Class

343

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

SEP 15 2005

OFFICE OF PETITIONS

MICHAEL BEST & FRIEDRICH, LLP
100 E WISCONSIN AVENUE
MILWAUKEE, WI 53202

In re Application of :
Lyftogt, et al. :
Application No. 11/102,391 : DECISION GRANTING PETITION
Filed: April 8, 2005 :
Attorney Docket No. 025213-9140-00 :

This is a decision on the petition filed May 5, 2005, under 37 CFR 1.10 requesting that the above-cited application be accorded a filing date of April 8, 2005, rather than the presently accorded filing date of April 9, 2005.

Petitioner alleges that the application was deposited with the Express Mail Service on April 8, 2005. In support of the allegation, the petition is accompanied by a copy of the "Track and Confirm" communication from the United States Postal Service showing that Express Mail package EV635803208US was deposited with the United States Postal Service, Express Mail Service on April 8, 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 April 8, 2005.

In view of the above, the petition is granted. The new filing date for the above-cited application is April 8, 2005.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 8, 2005, and for issuance of 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

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

AUZVILLE JACKSON, JR.
8652 RIO GRANDE ROAD
RICHMOND, VA 2322

COPY MAILED

SEP 15 2006

OFFICE OF PETITIONS

In re Application of

Thomas Gretz

Application No. 11/102,392

Filed: April 8, 2005

Attorney Docket No. 1744 (Arl)

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed February 21, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on November 4, 2005, after it was believed that no response was received to the non-final Office action mailed August 4, 2005. The non-final Office action allowed a period for reply of three 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 February 28, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that an amendment responsive to the non-final Office action was mailed on September 8, 2005. A copy of the amendment containing a certificate of mailing dated September 8, 2005, accompanied the petition.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was mailed prior to expiration of the shortened statutory period for reply. The holding of abandonment is withdrawn, accordingly. No petition fee is due.

The application file is being forwarded Technology Center 2800, GAU 2831, for further processing including entry of the copy of the amendment filed February 21, 2006.

Kenya McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

MAILED

JUN 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Graus et al.	:	
Application No. 11/102,403	:	ON APPLICATION FOR
Filed: April 8, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 22354	:	

This is in response to the "Application for Patent Term Adjustment Including Request for Reconsideration under 37 C.F.R. § 1.705(b)" filed May 19, 2009. Applicant requests that the determination of patent term adjustment be corrected from three hundred forty-three (343) days to five hundred fifty-nine (559) days pursuant to 37 CFR 1.703(a)(6) for the Office's failure to issue the patent within four months after the date on which the issue fee was paid and all outstanding requirements were met.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b). (This is true even in this instance where a request for continued examination (RCE) was filed.) The computer will not undertake the § 1.703(b) calculation until the actual date of issuance of the patent has been determined. Accordingly, it is still too soon to make a determination as to the correctness of any period of adjustment that will or will not be entered pursuant to § 1.703(b)).

Applicant is given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within three years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

It is acknowledged that applicant is correct 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 –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is noted that a Request for Continued Examination (RCE) was filed in this application on November 10, 2008.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

COPY MAILED

DEC 11 2009

OFFICE OF PETITIONS

In re Patent No. 7,563,441	:	
Graus, et al.	:	DECISION DISMISSING
Application No. 11/102,403	:	REQUEST FOR
Issue Date: July 21, 2009	:	RECONSIDERATION OF
Filed: April 8, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 22354	:	UNDER 37 CFR 1.705

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 CFR §1.705, filed August 18, 2009. The petition is properly treated under 37 CFR 1.705(d).

Patentees request that the determination of patent term adjustment be corrected from three hundred forty-three (343) days to five hundred fifty-nine (559) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 343 days.

BACKGROUND

This application was filed on April 8, 2005. On November 10, 2008, a request for continued examination (RCE) was filed. On, July 21, 2009, the application matured into U.S. Patent No. 7,563,441, with a revised patent term adjustment of 343 days. The Office determined that the 215 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[1] overlaps with the 461 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and

[1] As of the filing of the RCE on November 10, 2008, the application was pending three years and 215 days.

37 CFR 1.702(a)(1)[2,3] accorded prior to the filing of the request for continued examination. Further, an additional 10 days of Office delay accrued pursuant to 37 CFR 1.702(a)(2)[4] after the filing of the RCE.[5] As such, the Office allowed only entry of the adjustment of 471 days for Office delay. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 128 days, the patent issued with a revised patent term adjustment of 343 (471 - 128) days.

On August 18, 2009, patentees timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 559 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts

---

[2] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

[3] A restriction requirement was not mailed until September 12, 2007, fourteen months and 461 days after the application filing date, April 8, 2005.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed 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;

[5] A Notice of Allowance was not mailed until March 20, 2009, four months and 10 days after a response was filed on November 10, 2008.

that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 687 (471 + 216) days as these periods do not occur on the same day. Further, given the applicant delay of 128 days, patentees assert entitlement to 559 (687 - 128) days of patent term adjustment.

OPINION

Patentees' interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[6] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C.

---

[6] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), April 8, 2005, and ending on November 9, 2008, the day before the filing of the request for continued examination (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). The

relevant period ends with the filing of the RCE as the three-year time frame specified in 35 U.S.C. 154(b)(1)(B) does not include the period subsequent to the filing of the RCE. 35 U.S.C. 154(b)(1)(B)(i). Thus, only the 461 days of patent term adjustment accorded prior to the filing of the request for continued examination, pursuant to 37 CFR 1.702(a)(1) is considered in determining overlap. The 10 days for Office delay under 37 CFR 1.702(a)(2) occurring subsequent to the filing of the request for continued examination is not considered.

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 461 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(2), 10 days of patent term adjustment were accorded during the pendency of the application for Office delay after to the filing of the request for continued examination. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 215 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 215 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 461 days of patent term adjustment under 37 CFR 1.702(a)(1). Contrary to patentees request, entry of both the 461 under 37 CFR 1.702(a)(1), 10 days under 37 CFR 1.702(a)(2), and the 215 days under 37 CFR 1.702(b) is neither permitted nor warranted. 471 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 343 days (471 of Office delay - 128 days of applicant delay).

The $200.00 fee set forth in 37 CFR 1.18(e) has been charged to Deposit Account No. 08-2525 as authorized. This fee is required and will not be waived.

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

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

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY, NJ 07110

Mail Date: 04/30/2010

Applicant	: Yvo Graus	: DECISION ON REQUEST FOR
Patent Number	: 7563441	: RECALCULATION of PATENT
Issue Date	: 07/21/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/102,403	: OF WYETH
Filed	: 04/08/2005	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

Kara K. Fairbairn
Fredrikson & Byron, P.A.
Suite 4000
200 South Sixth Street
Minneapolis MN 55402-1425

COPY MAILED

JUN 3 0 2005

OFFICE OF PETITIONS

In re Application of
Bond, et al.
Application No. 11/102,412
Deposited: April 7, 2005
Attorney Docket No. 44046.203.15.4
For: TRANSPARENT ARTICLE HAVING PROTECTIVE SILICON NITRIDE FILM

: DECISION GRANTING
: PETITIONS

This is a decision on the petition under 37 CFR 1.53(e), filed June 20, 2005 (certificate of mailing date June 17, 2005), requesting that the above-identified application be accorded a filing date of April 8, 2005. The petition will also be treated as a constructive petition under 37 CFR 1.10(d).

The petition under 37 CFR 1.53(e) is **GRANTED**.

The constructive petition under 37 CFR 1.10(d) is **GRANTED**.

According to Office records, the application was deposited on April 7, 2005. On May 4, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that no filing date had been accorded to the application papers deposited on April 7, 2005 because no drawing was present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of April 8, 2005 on the basis that 1 sheet of drawings was received in the Patent and Trademark Office (PTO) on April 8, 2005. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 7, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing includes 1 sheet of drawings.

The return postcard constitutes *prima facie* evidence that 1 sheet of drawings was filed with the original application papers. MPEP 503.

As stated above, the postcard cites **April 7, 2005** as the filing date for the application. In addition, the date-in listed on Express Mail mailing label no. EV213155457US, the label number associated with this application, is **April 7, 2005.**

Petitioners desire a filing date of **April 8, 2005** for the application. A constructive petition under 37 CFR 1.10(d) is required.

Petitioners assert the application was deposited in Express Mail service on April 8, 2005, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of the Express Mail label for EV213155457US that shows a date-in of April 7, 2005 and a postal date stamp of April 8, 2005. The same Express Mail label number is found on the original application papers. In addition, petitioners have provided a sales receipt dated April 8, 2005 that shows Express Mail label EV213155457US was purchased on that date.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed June 20, 2005, is accompanied by the corroborating evidence required by the rule. Accordingly, the feeless petition under 37 CFR 1.10(d) is granted.

Thus, petitioners have shown (1) that the missing sheet of drawings was filed with the original application papers by their date stamped postcard receipt and (2) that the entire application was deposited in Express Mail service on April 8, 2005.

Pursuant to petitioners' authorization, deposit account no. 06-1910 will be credited the $400 fee submitted on June 20, 2005 (certificate of mailing date June 17, 2005).

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **April 8, 2005**, using the copy of the 1 sheet of drawings submitted with the instant petition. Office records will be corrected to show that 1 sheet of drawings was present on filing.

Thereafter, the application will be forwarded to Technology Center Art Unit 2812 for examination in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

COPY MAILED

OCT 31 2006

OFFICE OF PETITIONS

In re Application of
Wallach, et al.
Application No. 11/102,421
Filed: April 8, 2005
Attorney Docket No. 05306.P069C

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 4, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman 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

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		:	
Scott Olive		:	
Serial No.	11/102,427	:	DECISION ON PETITION
Filed:	April 8, 2005	:	
For:	SLOT MACHINE GAME AND SYSTEM: WITH IMPROVED JACKPOT FEATURE:		

This is a decision on the petition to make special filed on April 8, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3713 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Christopher N. George
McAndrews, Held & Malloy, Ltd.
500 West Madison Street
Chicago, IL 60661

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

PAUL HASTINGS JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

COPY MAILED

DEC 23 2009

OFFICE OF PETITIONS

In re Application of
Todd E. Kooken et al
Application No. 11/102,429
Filed: April 8, 2005
Attorney Docket No. LEEE200536

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 5, 2009.

The request is **APPROVED**.

The request was signed by Robert M. Masters on behalf of the practitioners who are associated with Customer No. 36183.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor or the assignee of the entire interest at the copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Todd E. Kooken
3842 Grenville Rd.
University Hts., OH 44118

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/102,429	04/08/2005	Todd E. Kooken	LEEE200536

CONFIRMATION NO. 6254

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

Date Mailed: 12/23/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/102,429	04/08/2005	Todd E. Kooken	LEEE200536

CONFIRMATION NO. 6254

POA ACCEPTANCE LETTER

Todd E. Kooken
3842 Grenville Rd.
University Hts., OH 44118

OC00000039347823

Date Mailed: 12/23/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/idingle/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jay H. Maioli
Cooper & Dunham
1185 Avenue of the Americas
New York NY 10036

COPY MAILED

JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Kazuyuki Sakoda :
Application No. 11/102,430 : ON PETITION
Filed: April 7, 2005 :
For: COMMUNICATION SYSTEM, :
COMMUNICATION METHOD AND :
COMMUNICATION APPARATUS :

This is a decision on the petition filed July 8, 2005 (certificate of mailing dated July 6, 2005), which is being treated as a request to withdraw the Notice of Omitted Item(s) in a Nonprovisional Application mailed on May 6, 2005.

On April 7, 2005, applicant filed the above-identified application. On May 6, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s)," stating that the application had been accorded a filing date of April 7, 2005, and advising applicant that Figures 5, 6A, 6B, 7A, 7B, and 8-11 appeared to have been omitted.

In response, on July 8, 2005 (certificate of mailing dated July 6, 2005), applicant submitted the present petition, 12 sheets of drawings, including copies of Figures 5, 6A, 6B, 7A, 7B, and 8-11, and the $400.00 petition fee. Applicant asserted that all twelve sheets of drawings, comprising eighteen figures, were mailed on April 7, 2005, via Express Mail. Applicant stated that his copy of the documents submitted to the USPTO included twelve sheets of drawings, and therefore, it was impossible that the documents mailed to the USPTO did not include all twelve sheets of drawings.

The argument is not persuasive. The Office file is the official record of the papers originally filed in this application. A review of the official file reveals Figures 5, 6A, 6B, 7A, 7B, and 8-11 are not present in the file. An applicant alleging that a paper was filed in the USPTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard, identifying the paper. A postcard receipt, which itemizes and properly identifies the papers that are being filed, serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date-stamped thereon by the Office. See MPEP 503.

Unfortunately, applicant did not submit a returned, date-stamped postcard receipt with the petition. If applicant has a returned, date-stamped postcard receipt, showing that twelve sheets of drawings, including Figures 5, 6A, 6B, 7A, 7B, and 8-11, were filed on April 7, 2005, the postcard receipt or a copy thereof should be supplied.

It is noted that the "Request for Continuation Application under 37 CFR 1.53(b)" indicated that the entire disclosure of the prior application, No. 09/798,582, was considered as being part of the disclosure of the accompanying application and was incorporated by reference.

Section 201.06(c) of the Manual of Patent Examining Procedure states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (Emphasis supplied).

In view of the incorporation by reference of the prior application, Figures 5, 6A, 6B, 7A, 7B, and 8-11 are not new matter if they were part of the disclosure of the prior application. Applicant may file an amendment to the examiner to include Figures 5, 6A, 6B, 7A, 7B, and 8-11 without a petition.

In view of the above, the petition is **dismissed** and the "Notice of Omitted Item(s)" will not be withdrawn. The $400.00 petition fee will not be refunded because the filing of the petition was not necessitated by USPTO error.

The Office of Initial Patent Examination is directed to process the application with a filing date of April 7, 2005, using the application papers filed on that date. Figures 5, 6A, 6B, 7A, 7B, and 8-11 will NOT be entered at this time.

Telephone inquiries regarding this decision should 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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HANSRA PATENT SERVICES
4525 GLEN MEADOWS PLACE
BELLINGHAM, WA 98226

COPY MAILED

MAY 09 2007

OFFICE OF PETITIONS

In re Application of
BRUNNETT, et al.
Application No. 11/102,467
Filed: April 8, 2005
Attorney Docket No. 3123-639

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Tejpal S. Hansra of HANSRA PATENT SERVICES has been revoked by the assignee of the patent application on April 23, 2007 and re-submitted April 27, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **FELLER SNIDER BLANKENSHIP BAILEY & TIPPENS PC**
100 NOTRTH BRAODWAY, SUITE 1700
OKLAHOMA CITY, OK 73102-8820

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Sep-07

NIXON PEABODY LLP - PATENT GROUP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER NY 14603-1051

COPY MAILED

SEP 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Chang et al.	:	
Application No. 11/102,476	:	DECISION ON PETITION
Filed: 04/08/2005	:	
Atty Docket No. 19603/5532(CRF D-3080-03)	:	

This is a decision on the petition filed on 16 July, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 15 December, 2006, for failure to timely respond to the Office action requiring

---

[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.

(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)).

restriction and/or election mailed on 14 November, 2006, which set a one (1) month shortened statutory period for reply. Notice of Abandonment was mailed on 1 June, 2007.

Receipt of the amendment containing an election is acknowledged.

Receipt of the revocation and power of attorney filed with the present petition is acknowledged.

This application is being referred to Technology Center Art Unit 1645 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

Encl:

Notice Regarding Change of Power of Attorney
Notice of Acceptance of Power of Attorney

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

Edwards Angell Palmer & Dodge LLP
111 HUNTINGTON AVENUE
BOSTON, MA 02199

COPY MAILED

DEC 0 4 2009

OFFICE OF PETITIONS

In re Patent of Grant et al. :
Patent No. 7,563,443 :
Issue Date: July 21, 2009 :
Application No. 11/102,512 :
Filing Date: April 8, 2005 :
Attorney Docket No. 2132b(208039) :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This decision is in response to the "Petition for Review of Patent Term Adjustment Under 37 C.F.R. §§ 1.181 & 1.705(D)" filed September 21, 2009. Patentees request the determination of patent term adjustment indicated on the patent be corrected from three hundred thirty-five (335) days to seven hundred eighty-one (781) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application matured into United States Patent No. 7,563,443 with a revised patent term adjustment of 335 days on July 21, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.

Patentees assert the correct patent term adjustment is 781 days. Specifically, patentees state the patent term adjustment should include an additional 446 days as a result of Office delay under 35 U.S.C. § 154(b)(1)(B) ("B delay").

The application was filed April 8, 2005, and issued as a patent three years and 469 days later on July 21, 2009. Therefore, B delay in this case is 469 days.[1]

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of delay under 35 U.S.C. § 154(b)(1)(A) ("A delay") and B delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

> To the extent that time periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

[1] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(i)-(iii).

Patentees do not dispute the fact the total period of Office delay is the sum of the period of A delay (484 days) and the period of B Delay (469 days) to the extent the periods of delay do not overlap. However, patentees assert the period of overlap is 23 days. The Office does not agree with patentees' assertion. The Office contends the period of overlap is 469 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.[2]

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, April 8, 2005, to the date of issuance of the patent, July 21, 2009. The entire 484 days of A delay was accrued during the relevant time period.

The 469 days of B delay overlap with the 484 days of A delay. Therefore, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

In view of the previous discussion, the patent term adjustment set forth on the patent remains 335 days which is the sum of 484 days of A delay and 469 days of B delay reduced by 469 of overlap and reduced by 149 days for Applicant delay.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

---

[2] *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

MAILED

MAY 19 2010

OFFICE OF PETITIONS

Edwards, Angell, Palmer & Dodge LLP
111 Huntington Avenue
Boston, MA 02199

In re Patent No. 7,563,443	:
Grant et al.	: DECISION UPON REMAND AND
Issue Date: July 21, 2009	: RECONSIDERATION OF
Application No. 11/102,512	: PATENT TERM ADJUSTMENT
Filed: April 8, 2005	: AND NOTICE OF INTENT
Attorney Docket No. 8039/2132B	: TO ISSUE CERTIFICATE OF
Title: Monovalent Anti-CD40L	: CORRECTION
Antibody Polypeptides and	:
Compositions Thereof	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by seven hundred and eighty-one (781) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred and eighty-one (781) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,563,443 B2

DATED : **July 21, 2009** **DRAFT**

INVENTOR(S) : Grant 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 335 days

Delete the phrase "by 335 days" and insert – by 781 days--

Day : Tuesday
Date: 5/18/2010

PALM INTRANET

Time: 09:30:35

PTA Calculations for Application: 11/102512			
Application Filing Date:	04/08/2005	PTO Delay (PTO):	484
Issue Date of Patent:	07/21/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	149
Post-Issue Petitions:	0	Total PTA (days):	781
PTO Delay Adjustment:	446		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
91	05/14/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	446		
83.5	07/01/2009	PTA 36 MONTHS			
83	07/21/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
82	06/22/2009	EXPORT TO FINAL DATA CAPTURE			
81	06/19/2009	FINISHED INITIAL DATA CAPTURE			
80	06/19/2009	DISPATCH TO FDC			
79	04/22/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
78	04/17/2009	ISSUE FEE PAYMENT VERIFIED			
77	04/17/2009	ISSUE FEE PAYMENT RECEIVED			
76	04/17/2009	WORKFLOW - QUERY REQUEST - FINISH			
75	04/16/2009	TC RETURN TO PUBS			
74	04/16/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
73	04/13/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
72	04/02/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		15	74
71	03/13/2009	PUBS CASE REMAND TO TC			
70	03/18/2009	WORKFLOW - QUERY REQUEST - BEGIN			
69	03/18/2009	TC RETURN TO PUBS			
66	03/16/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
65	03/03/2009	EXPORT TO INITIAL DATA CAPTURE			
61	02/24/2009	MAIL NOTICE OF ALLOWANCE	23		44
60	02/17/2009	DOCUMENT VERIFICATION			
59	02/17/2009	ISSUE REVISION COMPLETED			
58	02/17/2009	NOTICE OF ALLOWANCE DATA VERIFICATION			

		COMPLETED			
57	02/17/2009	CASE DOCKETED TO EXAMINER IN GAU			
56	02/17/2009	EXAMINER'S AMENDMENT COMMUNICATION			
55	02/02/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
54	02/17/2009	NOTICE OF ALLOWABILITY			
49	02/03/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	02/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	02/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	02/03/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
45	10/21/2008	DATE FORWARDED TO EXAMINER			
44	10/01/2008	RESPONSE AFTER NON-FINAL ACTION		91	42
43	10/01/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	04/02/2008	MAIL NON-FINAL REJECTION			
41	03/29/2008	NON-FINAL REJECTION			
40	03/18/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
39	01/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	01/24/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
37	06/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	09/26/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	03/28/2008	REFERENCE CAPTURE ON IDS			
34	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		2	27
30	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	01/24/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	01/28/2008	DATE FORWARDED TO EXAMINER			
27	01/22/2008	RESPONSE TO ELECTION / RESTRICTION FILED		41	25
26	01/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			

25	09/12/2007	MAIL RESTRICTION REQUIREMENT	461		-1
24	09/10/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
23	02/13/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	06/19/2006	REFERENCE CAPTURE ON IDS			
21.7	06/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	06/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20.7	09/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	09/26/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	08/12/2005	PRELIMINARY AMENDMENT			
18	09/06/2005	APPLICATION RETURN FROM OIPE			
17	09/06/2005	APPLICATION IS NOW COMPLETE			
16	09/06/2005	APPLICATION RETURN TO OIPE			
15	09/01/2005	APPLICATION DISPATCHED FROM OIPE			
14	09/02/2005	APPLICATION IS NOW COMPLETE			
13	04/08/2005	ADDITIONAL APPLICATION FILING FEES			
12	08/12/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
11	08/12/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
10	08/12/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
9	08/23/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
8	06/07/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
5	05/17/2005	CLEARED BY L&R (LARS)			
4	04/22/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	04/22/2005	CASE CLASSIFIED BY OIPE			
2	04/20/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/08/2005	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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CASCADIA INTELLECTUAL PROPERTY
500 UNION STREET, SUITE 1005
SEATTLE, WA 98101

COPY MAILED

APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Gust H. BARDY :
Application No. 11/102,522 : DECISION ON PETITION TO
Filed: April 8, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. **115.0097USC2/03-426APM-C** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **CASCADIA INTELLECTUAL PROPERTY** has been revoked by the assignee of the patent application on February 26, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **PAULY, DEVRIES SMITH & DEFFNER, L.L.C.**
45 SOUTH SEVENTH STREET, PLAZA VII- SUITE 3000
MINNEAPOLIS, MN 55402-1630

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

6/27/09

Patent No. :7539931
Inventor(s) :11/102530
Issued : 5/26/2009
Title : Storage Element For Mitigating Soft Errors In Logic
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 claims 8 col. line18 is printed in accordance with the record please show evidence of supporting data or amendment. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

HEWLETT PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS, COLORADO 80527-2400

HR

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

JUL 2 0 2006

OFFICE OF PETITIONS

In re Application of :
Bjarne Due Larsen et al :
Application No. 11/102,564 : DECISION ON PETITION
Filed: April 8, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 50412/012004 :

This is a decision on the petition under 37 CFR 1.55(c), filed January 13, 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 Danish Application No. 01486.

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 the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

COPY MAILED

JUN 0 4 2007

OFFICE OF PETITIONS

In re Application of
Bjarne Due Larsen et al
Application No. 11/102,564
Filed: April 8, 2005
Attorney Docket No. 50412/012004

: DECISION ON PETITION
: UNDER 37 CFR 1.55(c)

This is a decision on the renewed petition under 37 CFR 1.55(c), filed August 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Danish Application No. PA 2000 01486, filed October 5, 2000.

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.

Intermediate Application No. 09/882,291, having a filing date of June 15, 2001, was within 12 months of October 5, 2000 (the filing date of the foreign application to which benefit is now being claimed). An Application Data Sheet was received with this renewed petition, which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370 was received with the original petition of January 13, 2006. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The rule at 37 CFR § 1.55(c) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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 1648 for consideration by the examiner of record of applicants' entitlement to claim benefit of priority to the above-noted foreign application under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3218.

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
11/102,564	04/08/2005	1648	1470	50412/012004	32	4

CONFIRMATION NO. 4584

CORRECTED FILING RECEIPT

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

OC000000024202959

Date Mailed: 06/04/2007

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)

Bjarne Due Larsen, Vanlose, DENMARK;
Jorgen Soberg Petersen, Gentofte, DENMARK;
Daniel R. Kapusta, Slidell, LA;
Kenneth W. Harlow, Frederiksberg, DENMARK;

Power of Attorney: The patent practitioners associated with Customer Number **21559**.

Domestic Priority data as claimed by applicant

This application is a CON of 09/882,291 06/15/2001
which claims benefit of 60/298,186 06/13/2001
and claims benefit of 60/251,671 12/06/2000

Foreign Applications

DENMARK PA 2000 00944 06/16/2000
DENMARK PA 2000 01486 10/05/2000

If Required, Foreign Filing License Granted: 05/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/102,564

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Novel peptide conjugates

Preliminary Class

514

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 25, 2010

Patent No. : 7,680,024 B2
Appl. No. : 11/102,567
Inventor(s) : Duanyi Xu, et al.
Issued : March 16, 2010
Title : **MULTILEVEL READ-ONLY OPTICAL DISK AND METHOD FOR PRODUCING THE SAME**
Docket No. : **57996-8001.US01**

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 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: (571) 273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

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 TOWNSEND & CREW, LLP
TWO EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED

MAY 12 2008

OFFICE OF PETITIONS

In re Application of :
YE, et al. :
Application No. 11/102,574 : DECISION ON PETITION
Filed: April 7, 2005 : TO WITHDRAW
Attorney Docket No. **025748-000200US** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to **TOWNSEND TOWNSEND & CREW, LLP** has been revoked by the assignee of the patent application on April 29, 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: **JONES DAY**
222 EAST 41ST STREET
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

COPY MAILED

JUL 20 2007

OFFICE OF PETITIONS

In re Application of
KNOPF, Michael A. et al.
Application No. 11/102,579
Filed: April 08, 2005
Attorney Docket No. **967.085US1**

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 25, 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 July 02, 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: **MATHEWS, SHEPHERD, MCKAY & BRUNEAU, P.A.**
29 THANET ROAD, SUITE 201
PRINCETON, NJ 08540

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

COPY MAILED

OCT 23 2007

OFFICE OF PETITIONS

Schwegman, Lundberg, Woessner & Kluth, P.A.
P.O. Box 2938
Minneapolis, MN 55402

In re Application of :
Michael A. Knopf et al. :
Application No. 11/102,583 : DECISION ON PETITION
Filed: April 8, 2005 : TO WITHDRAW
Attorney Docket No. 5350-222.2 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 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 July 2, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Mathews, Shepherd, McKay & Bruneau, P.A.**
29 Thanet Road, Suite 201
Princeton, NJ 08540

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
11/102,585	04/06/2005	2612	0.00	915-005.159	4	20	3

CONFIRMATION NO. 4580

CORRECTED FILING RECEIPT

OC000000016178527

004955
WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Date Mailed: 06/02/2005

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)

Jarkko Viinikanoja, Residence Not Provided;
Tapani Levola, Residence Not Provided;

Assignment For Published Patent Application

Nokia Corporation

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/102,585

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Optical shutter

Preliminary Class

348

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

COPY MAILED

SEP 16 2005

OFFICE OF PETITIONS

In re Application of :
Muller-Cohn et al. :
Application No. 11/102,588 : DECISION REFUSING
Filed: April 8, 2005 : STATUS UNDER
Title of Invention: : 37 CFR 1.47
INTEGRATION OF SAMPLE STORAGE AND :
SAMPLE MANAGEMENT FOR LIFE SCIENCE :

This is in response to a Petition Under 37 CFR § 1.47(a), filed July 21, 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 April 8, 2005, without an oath or declaration. In response, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on May 24, 2005, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant files the instant petition and states that the application (specification, claims, abstract and drawings), was forwarded to Biomatrica, Inc. ("Biomatrica") on April 11, 2005, and an original declaration was forwarded to Biomatrica on May 19, 2005, for execution by all joint inventors. The nonsigning inventor did not sign the declaration. Applicant states further that a reminder letter was sent to the nonsigning inventor at her last known address on July 25, 2005. Applicant thus petitions to allow the other inventor(s) to

proceed with the application on behalf of himself or herself and the nonsigning inventor.

Applicable Law

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (1).

As to item (1),

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

MPEP 409.03(d)

Here, Applicant has failed to demonstrate that the nonsigning inventor was ever presented with a copy of the application. Applicant only states that a copy of the application was forwarded to Biomatrica.

Conclusion

Applicant must present a copy of the application papers to the inventor before a refusal can be alleged. Applicant should mail a copy of the application to the inventor at her last known address.

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
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

SEED INTELLECTUAL PROPERTY
LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of:	:	
Muller-Cohn et al.	:	
Application No. 11/102,588	:	DECISION
Filed: April 8, 2005	:	DISMISSING
For: INTEGRATION OF SAMPLE STORAGE	:	PETITION AS
AND SAMPLE MANAGEMENT FOR	:	MOOT
LIFE SCIENCE	:	

This is in response to the Request for Reconsideration Petition, under 37 CFR 1.47(a), filed January 12, 2006 noting the joinder of the inventor. A two (2) month extension-of-time request has been granted.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being returned to the Office if Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

Attachment: Updated 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
11/102,588	04/08/2005	1744	2620	150079.401	18	53	10

CONFIRMATION NO. 5821

REPLACEMENT FILING RECEIPT

OC000000018141003

00500
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 6300
SEATTLE, WA 98104-7092

Date Mailed: 02/27/2006

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)

Judy Muller-Cohn, Del Mar, CA;
Rolf Muller, Del Mar, CA;
Corinna Hermstadt, San Diego, CA;

Assignment For Published Patent Application

Biomatrica, Inc., Del Mar, CA

Power of Attorney: The patent practitioners associated with Customer Number **00500**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/560,829 04/08/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/23/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/102,588

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Integration of sample storage and sample management for life science

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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

OCT 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Jun Ye, et al.	:	
Application No. 11/102,611	:	DECISION ON PETITION
Filed: April 7, 2005	:	TO WITHDRAW
Attorney Docket No. 025748-000300US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 2008.

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 April 29, 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/
April M. Wise
Petitions Examiner
Office of Petitions

cc: JONES DAY
1755 EMBARCADERO ROAD
PALO ALTO, CA 94303

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

SEP 28 2007

MARTIN MOYNIHAN
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of	:
Shoshana Merchav et al	:
Serial No.: 11/102,623	: PETITION DECISION
Filed: April 11, 2005	:
Attorney Docket No.: 29628	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed September 11, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

SEP 21 2007

MARTIN MOYNIHAN
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of	:	
Shoshana Merchav et al	:	
Serial No.: 11/102,625	:	PETITION DECISION
Filed: April 11, 2005	:	
Attorney Docket No.: 28248	:	

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed September 11, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

NOV 16 2007

MARTIN MOYNIHAN
C/O ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

In re Application of	:	
Shoshana Merchav et al	:	
Serial No.: 11102,654	:	PETITION DECISION
Filed: April 11, 2005	:	
Attorney Docket No.: 29267	:	

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed originally filed September 11, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

HDSL
4331 STEVENS BATTLE LANE
FAIRFAX, VA 22033

COPY MAILED

FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Chang-Hsin KUO :
Application No. 11/102,675 : ON PETITION
Filed: April 11, 2005 :
Attorney Docket No. PB94030CIP :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 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 above-identified application became abandoned on June 23, 2007.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of continuing application No. 11/864,908, filed September 29, 2007.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

April Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

COPY MAILED

FEB 20 2007

OFFICE OF PETITIONS

In re Application of
Makino
Application No. 11/102,752
Filed: April 11, 2005
Attorney Docket Number: SON-2128/CON1
Title of Invention:OPTICAL SWITCHING ELEMENT, AND SWITCHING DEVICE AND IMAGE DISPLAY APPARATUS EACH USING THE OPTICAL SWITCHING ELEMENT

ON PETITION

This is a decision on the petition filed July 17, 2006, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely reply to the supplemental Notice of Allowance, as required by the supplemental Notice of Allowance and Fee (s) Due which was mailed December 13, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 14, 2005. A Notice of Abandonment was mailed on July 28, 2006.

Although the March 29, 2006 examiner interview summary withdrew the second supplemental Notice of Allowance mailed on March 21, 2006, the first supplemental Notice of Allowance mailed December 13, 2005 required a reply. The Notice of Allowance clearly states that "The PTOL-85B (or and equivalent) must be returned within this period even if no fee is due or the application will be regarded as abandoned". Petitioner's failure to respond to the December 13, 2005 supplemental Notice resulted in the abandonment of the application. Accordingly, this petition is

properly treated under 37 CFR 1.137(b).

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

The Office is in receipt of the issue and publication fee previously submitted on November 23, 2005.

Pursuant to petitioner's request deposit account no.18-0013 will be charged the $1500.00 petition fee.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries 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

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

MAILED

MAR 02 2009

OFFICE OF PETITIONS

In re Application of :
Rich et al. :
Application No. 11/102,757 : DECISION ON PETITION
Filed: April 11, 2005 :
Attorney Docket Number: P06406US02/BAS :

This is a decision on the petition, filed October 16, 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 as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 27, 2008. A Notice of Abandonment was mailed on October 6, 2008.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on September 29, 2009 of, *inter alia,* RCE, amendment, and petition for five month extension of time. Petitioner states that a reply to the Notice of Appeal is visible in PAIR. It should further be noted that since September 27, 2008 fell on a Saturday, the submission of the reply on September 29, 2008 was timely.

Review of the file record shows the originally submitted sent on September 29, 2008 has been located.

Accordingly, the holding of abandonment for failure to timely file a proper reply to the Notice of Appeal of February 27, 2008 is hereby withdrawn and the application restored to pending status.

This application is being referred to Art Unit 1645 for appropriate action of the RCE and amendment in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: Rebecca L. Rich	: DECISION ON REQUEST FOR
Patent Number	: 7638135	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,757	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **376** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Ballard Spahr Andrews & Ingersoll, LLP
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

COPY MAILED

APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
E. O. Kajander et al.	:	
Application No. 11/102,798	:	DECISION ON PETITION
Filed: April 11, 2005	:	TO WITHDRAW
Attorney Docket No. 14151.0005U2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 6735.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Nanobac Pharmaceuticals, Inc.
4730 N. Habana Avenue
Suite 205
Tampa, FL 33614

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

MAILED

JUN 22 2009

OFFICE OF PETITIONS

Ballard Spahr Andrews & Ingersoll, LLP
Suite 1000
999 Peachtree Street
Atlanta, GA 30309-3915

In re Application of :
E.O. Kajander et al. :
Application No. 11/102,798 : DECISION ON
Filed: April 11, 2005 : PETITION TO WITHDRAW
Attorney Docket No. 14151.0005U2 : 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 April 22, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sumner C. Rosenberg on behalf of attorney/agents associated with customer number 23859. All attorneys/agents associated with customer number 23859 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Nanobac Pharmaceuticals, Inc.
4730 N. Habana Avenue, Suite 205
Tampa, FL 33614

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/102,798	04/11/2005	E. O. Kajander	14151.0005U2

CONFIRMATION NO. 7449

POWER OF ATTORNEY NOTICE

23859
Ballard Spahr Andrews & Ingersoll, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

OC000000036584958

Date Mailed: 06/22/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

COPY MAILED
JUN 14 2006
OFFICE OF PETITIONS

Applicant: Dalko et al.
Appl. No.: 11/102,812
Filing Date: April 11, 2005
Title: IMIDAZOLINE DERIVATIVES HAVING CB1-ANTAGONISTIC ACTIVITY
Attorney Docket No.: 05725.1149-01
Pub. No.: US 2005/0187197 A1
Pub. Date: August 25, 2005

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), filed on October 25, 2005, for the above-identified application

The request is granted-in-part.

Applicant requests that the application be republished because the patent application publication contains material errors, as formula (I) is incorrectly printed in claim 34 and the specification fails to include amendments made in the preliminary amendment.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.[1]

The instant request identifies a material mistake by the Office with respect to the claim 34, however it also includes mistakes that are not material errors by the Office, which will not be corrected by a corrected publication by the Office.

The patent application publication does not include a mistake in the publication by the Office with respect to the specification because patent application publications are not required to

[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).

include preliminary amendments, according to 37 CFR 1.215(a)[2], which says the following, in part:

> (a) ... The patent application publication will be based upon the specification and drawings deposited on the filing date of the application, as well as the executed oath or declaration submitted to complete the application. The patent application publication may also be based upon amendments to the specification (other than the abstract or the claims) that are reflected in a substitute specification under Sec. 1.125(b), amendments to the abstract under Sec. 1.121(b), amendments to the claims that are reflected in a complete claim listing under Sec. 1.121(c), and amendments to the drawings under Sec. 1.121(d), provided that such substitute specification or amendment is submitted in sufficient time to be entered into the Office file wrapper of the application before technical preparations for publication of the application have begun.

§ 1.215(c) says the following:

> (c) At applicant's option, the patent application publication will be based upon the copy of the application (specification, drawings, and oath or declaration) as amended, provided that applicant supplies such a copy in compliance with the Office electronic filing system requirements within one month of the mailing date of the first Office communication that includes a confirmation number for the application, or fourteen months of the earliest filing date for which a benefit is sought under title 35, United States Code, whichever is later.

While the patent application publication may now include a preliminary amendment, the Office is not required to use the preliminary amendment. The Office changed the procedures for publication of patent applications so as to publish applications as amended, when possible. See Patent Application Publications May Now Include Amendments, 1281 Off. Gaz. Pat. Office Notices 53 (April 13, 2004). The preliminary amendment filed April 11, 2005 does not comply with 37 CFR 1.121. The applicant did not supply a copy of the application in compliance with 37 CFR 1.215(c). The Office correctly published the application in accordance with 37 CFR 1.215(a).

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

---

[2]Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan; Final Rule, 69 FR 56482 (Sept. 21, 2004).

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/1/09

TO SPE OF : ART UNIT 2622

SUBJECT : Request for Certificate of Correction for Appl. No.: 11102845 Patent No.: 7466341 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

JASON CHAN [signature] 2622

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PAGE 1/2 * RCVD AT 4/14/2009 5:38:57 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/36 * DNIS:2709990 * CSID:7039200721 * DURATION (mm-ss):00-32

PTOL-806 (REV. 7/05)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STEVEN W. WEINRIEB
LAW OFFICES OF STEVEN W. WEINRIEB
8717 COLD SPRING ROAD
POTOMAC, MD 20854

MAILED

FEB 17 2009

OFFICE OF PETITIONS

In re Application of	:	
William J. MENTA, et al	:	
Application No. 11/102,859	:	ON PETITION
Filed: April 11, 2005	:	
Attorney Docket No. 81-880-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 22, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 5, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3721 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.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington DC 20006

COPY MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of :
Yong Bum Kim and Jin Wuk Kim :
Application No. 11/102,872 : DECISION ON PETITION
Filed: April 11, 2005 : PURSUANT TO
Attorney Docket No. : 37 C.F.R. § 1.47(A)
8733.1350.00-US :
Title: METHOD OF FABRICATING AN :
LCD, INCLUDING STEPS OF FORMING :
A COLOR FILTER BY PRESSING WITH :
A SOFT MOLD :

This is in response to the petition pursuant to 37 C.F.R. § 1.47(a), filed on March 6, 2009.

This petition is **DISMISSED**.

On April 11, 2005, the application was filed, identifying Yong Bum Kim and Jin Wuk Kim as joint inventors. A partially executed declaration was included on filing. On May 12, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response. A response to this notice was filed on December 9, 2005, along with a five-month extension of time so as to make timely the reply. A petition pursuant to Rule 1.47(a) was not included with the submission.

On March 6, 2009, this petition was fled along with, *inter alia*, the petition fee and a declaration of facts that contains the last-known address of non-signing inventor Yong Bum Kim[1] and copies of two online searches that were performed for the non-signing joint inventor. It is noted that the fee that is associated with the late submission of an oath or declaration was received on December 9, 2005.

1 Young Ho Kim declaration of facts, paragraph 4.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) either
    a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
    b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

Petitioner has met requirements (1) - (3) and (5) of 37 C.F.R. § 1.47(a).

Regarding the fourth requirement of 37 C.F.R. § 1.47(a), The declarant, Mr. Young Ho Kim, has indicted that he has actual knowledge that the last known address for the non-signing inventor is no longer valid,[2] two online searches were performed for the non-signing inventor, and neither of these searches was successful in locating this individual.[3]

As Petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor. However **the cursory searches that were performed for the non-signing joint inventor using two online search engines do not constitute a diligent effort at locating this individual. The record does not support a finding that diligent attempts were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or a private locator service.** If such searches are performed, and are sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts

2 Id. at 5.
3 Id. at 6.

failed, then Petitioner will have provided the necessary proof required under 37 C.F.R. § 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner should note that any statement that appears therein should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

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,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

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.[8]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington DC 20006

MAILED

FEB 16 2010

OFFICE OF PETITIONS

In re Application of :
Yong Bum Kim and Jin Wuk Kim :
Application No. 11/102,872 : DECISION ON RENEWED
Filed: April 11, 2005 : PETITION PURSUANT TO
Attorney Docket No. : 37 C.F.R. § 1.47(A)
8733.1350.00-US :
Title: METHOD OF FABRICATING AN :
LCD, INCLUDING STEPS OF FORMING :
A COLOR FILTER BY PRESSING WITH :
A SOFT MOLD :

This is in response to the renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on August 28, 2009.

This renewed petition is **DISMISSED.**

On April 11, 2005, the application was filed, identifying Yong Bum Kim and Jin Wuk Kim as joint inventors. A partially executed declaration was included on filing. On May 12, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response. A response to this notice was filed on December 9, 2005, along with a five-month extension of time so as to make timely the reply. A petition pursuant to Rule 1.47(a) was not included with the submission.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of each non-signing inventor;

(4) either
  a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or
  b) proof that each non-signing inventor cannot be found or reached after diligent effort, and;
(5) a declaration which complies with 37 C.F.R. § 1.63.

On March 6, 2009, an original petition pursuant to Rule 1.47(a) was fled along with, *inter alia*, the petition fee and a declaration of facts that contains the last-known address of non-signing inventor Yong Bum Kim[1] and copies of two online searches that were performed for the non-signing joint inventor. It is noted that the fee that is associated with the late submission of an oath or declaration was received on December 9, 2005.

The original petition pursuant Rule 1.47(a) was dismissed via the mailing of a decision on March 27, 2009, which indicated that requirements (1) - (3) and (5) of the Rule had been satisfied.

Regarding the fourth requirement of 37 C.F.R. § 1.47(a), the decision indicated, *in pertinent part*:

> The declarant, Mr. Young Ho Kim, has indicted that he has actual knowledge that the last known address for the non-signing inventor is no longer valid,[2] two online searches were performed for the non-signing inventor, and neither of these searches was successful in locating this individual.[3]
>
> *As Petitioner has set forth that the non-signing joint inventor cannot be found or reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* However **the cursory searches that were performed for the non-signing joint inventor using two online search engines do not constitute a diligent effort at locating this individual. The record does not support a finding that diligent attempts were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or a private locator service.** If such searches are performed, and are sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof

---

1 Young Ho Kim declaration of facts submitted with the original petition, paragraph 4.
2 Id. at 5.
3 Id. at 6.

> required under 37 C.F.R. § 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.
>
> Decision on original petition, pages 2-3. Emphases included.

With this renewed petition, it has been established that a letter was sent to the address that is known to be outdated,[4] a former co-worker of the non-signing inventor was contacted,[5] and the same two online search engines were utilized.[6] Petitioner has further included a four-month extension of time, so as to make timely this response.

Making contact with a former co-worker of the non-signing inventor does not constitute a diligent effort at locating this individual. The record does not support a finding that diligent attempts were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, or a private locator service. If such searches are performed, and are sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof required under 37 C.F.R. § 1.47 that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

If reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.47(a)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner should note that any statement that appears therein should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

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,[7] hand-delivery,[8] or facsimile.[9]

---

4 Park declaration of facts, submitted with renewed petition, paragraph 5.
5 Id. at 6.
6 Id. at 7.
7 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
8 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[10]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[11]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

9 (571) 273-8300- please note this is a central facsimile number.
10 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
11 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington DC 20006

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of :
Yong Bum Kim and Jin Wuk Kim :
Application No. 11/102,872 : DECISION NOTING JOINDER AND
Filed: April 11, 2005 : DISMISSING SECOND RENEWED
Attorney Docket No. : PETITION PURSUANT TO 37
8733.1350.00-US : C.F.R. § 1.47(A) AS MOOT
Title: METHOD OF FABRICATING AN :
LCD, INCLUDING STEPS OF FORMING :
A COLOR FILTER BY PRESSING WITH :
A SOFT MOLD :

This is in response to the second renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on May 3, 2010.

On April 11, 2005, the application was filed, identifying Yong Bum Kim and Jin Wuk Kim as joint inventors. A partially executed declaration was included on filing. On May 12, 2005, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (notice) was mailed, requiring a fully executed oath or declaration and the surcharge associated with the late submission of the same. The notice set a two-month period for response. A response to this notice was filed on December 9, 2005, along with a five-month extension of time so as to make timely the reply. A petition pursuant to Rule 1.47(a) was not included with the submission.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

(1) the petition fee of $200;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
(3) a statement of the last known address of each non-signing inventor;
(4) either
    a) proof that a copy of the entire

application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or

b) proof that each non-signing inventor cannot be found or reached after diligent effort, and;

(5) a declaration which complies with 37 C.F.R. § 1.63.

On March 6, 2009, an original petition pursuant to Rule 1.47(a) was filed along with, *inter alia*, the petition fee and a declaration of facts that contains the last-known address of non-signing inventor Yong Bum Kim[1] and copies of two online searches that were performed for the non-signing joint inventor. It is noted that the fee that is associated with the late submission of an oath or declaration was received on December 9, 2005.

The original petition pursuant Rule 1.47(a) was dismissed via the mailing of a decision on March 27, 2009.

A renewed petition was filed on August 28, 2009, and was dismissed via the mailing of a decision on February 16, 2010.

With this second renewed petition, Petitioner has submitted both a one-month extension of time so as to make timely this submission, and a declaration that has been properly executed by formerly non-signing joint inventor Yong Bum Kim.

As such, this second renewed petition is **DISMISSED AS MOOT.**

In view of the joinder of the joint inventor, further consideration under 37 CFR § 1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. **This application need not be returned to this Office for further consideration under 37 CFR § 1.47(a).**

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred to the Office of Patent Publication, so that this application can be processed into a patent.

---

1 Young Ho Kim declaration of facts submitted with the original petition, paragraph 4.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Roylance Abrams Berdo & Goodman)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

4/15/09

In re Application of:
MARSH, RONALD W. et al
Serial No. 11/102,874
Filed: Apr. 11, 2005
Docket: P6434
Title: INJECTION DEVICE WITH SECONDARY RESERVOIR

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed April 10, 2009 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed March 6, 2009.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed March 6, 2009 is hereby withdrawn. The Office action mailed on March 6, 2009 has been designated as non-final Office action. As such, the final Office action is premature and thus the finality of the action is hereby withdrawn. The period to respond to the Office action of March 6, 2009 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action dated March 6, 2009 will be treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of the Art Unit 3763 awaiting for the applicant's response of the outstanding Office action of March 6, 2009. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700

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

David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Roylance Abrams Berdo & Goodman)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 04/21/2010

Applicant	: Ronald W. Marsh	: DECISION ON REQUEST FOR
Patent Number	: 7645264	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,874	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1244** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

KAMILO FEHER
44685 COUNTRY CLUB DRIVE
EL MACERO CA 95618

COPY MAILED

JUN 09 2008

OFFICE OF PETITIONS

In re Application of
Kamilo Feher al.
Application No. 11/102,896
Filed: March 28, 2005
Attorney Docket No: **HYBRID 04-set subm05**

ON PETITION

This is a decision on the petition filed March 27, 2008, to correct the filing date from March 28, 2005 to December 28, 2004. The petition is treated under 37 CFR 1.10.

The petition is DISMISSED.

The above-referenced application was received March 28, 2005 and accorded a filing date upon receipt. However, petitioner argues that the application was actually filed December 28, 2004 with two other applications and seeks that date as the filing date. With the instant petition, petitioner has included copies of a USPS certified mail receipt mailed December 22, 2004 and date stamped by the USPTO on December 28, 2004, and suggests that the receipt is proof that the application was filed December 28, 2004.

Filing dates are based on the date of receipt or Express Mail pursuant to 37 CFR 1.10[1]. Applications that are not filed by "Express Mail" can only be accorded the date of receipt in the Office as the filing date

The certified mail receipt number 7004 2510 0000 5704 2641, date stamped December 28, 2004 by the USPTO and provided with the petition is not sufficient evidence to

---

[1]Paragraph (c) of 37 CFR 1.10 states that:

Any person filing correspondence under 37 CFR 1.10 that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
(2) The number of the "Express Mail" mailing label was placed on the papers or fees that constitute the correspondence prior to the original mailing by "Express Mail;" and
(3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

accord a filing date to the application other than the filing date accorded, based on the date of receipt.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that the application was filed December 28, 2004 and since the proof submitted does not substantiate a finding that the application was filed December 28, 2004, the application filing date will remain as March 28, 2005.

This matter is being referred to Technology Center 2611 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
Alexandria, VA 22313-1450
www.uspto.gov

Valeo Climate Control Corp.
Intellectual Property Dept
4100 North Atlantic Boulevard
Auburn Hills MI 48326

COPY MAILED

AUG 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Mohamed **BEN YAHIA**, et al.	:	
Application No. 11/102,901	:	DECISION ON PETITION
Filed: April 8, 2005	:	TO WITHDRAW
Attorney Docket No. TFR0287	:	FROM RECORD
	:	

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. Applicant is reminded that there is no attorney of record at this time. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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

MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Ken Nakayama	: DECISION ON REQUEST FOR
Patent Number	: 7594327	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/102,938	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **984** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

COPY MAILED

JUL 21 2005

OFFICE OF PETITIONS

In re Application of :
Schmidt and Freidhof :
Application No. 11/102,957 :
Filed: April 11, 2005 :
Attorney Docket No. **27392/29251** :

DECISION GRANTING PETITION

This is a decision on the petition filed May 26, 2005, under 37 CFR 1.10(d) requesting that the above-cited application be accorded a filing date of April 11, 2005.

Petitioner alleges that the application was deposited with the "Express Mail" service on April 11, 2005, but an the "date-in", as found on the "Express Mail" mailing label, was incorrectly cited as April 12, 2005.. In support of the allegation, the petition is accompanied by a copy of the "Express Mail" label with a tracking number EV532464264US showing a "date-in" of April 12, 2005, and a copy of the "Track and Confirm" sheet printed from the United States Postal Service website showing that package EV532464264 was received on April 11, 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 with the "Express Mail" service on April 11, 2005.

In view of the above, the petition is granted. The new filing date for the above-cited application is April 11, 2005.

The Office of Initial Patent Examination will further process the application with a filing date of April 11, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

John D Lister
228 North Granite Street
Prescott AZ 86301-3004

COPY MAILED

MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Harold Aesch, Jr. : DECISION ON PETITION
Application No. 11/102,959 :
Filed: April 11, 2005 :
Attorney Docket No. 1045CIP2 :

This is a decision on the "PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT BASED ON EVIDENCE THAT AN AMENDMENT WAS TIMELY MAILED AND RECEIVED" filed November 29, 2007.

The above-identified application became abandoned for failure to file a response to the non-final Office action mailed March 15, 2007. The Office action set a three month shortened statutory period for reply, with extensions of time under the provisions of 37 CFR 1.136(a) obtainable. No reply considered received and no extension of time considered obtained, the above-identified application became abandoned effective June 16, 2007. A courtesy Notice of Abandonment was mailed on October 16, 2007

In response, the instant petition was timely filed. Petitioner maintains that an amendment replying to the Office Action dated March 15, 2007, together with a one-month extension of time and the required petition fee, were deposited with the United States Postal Service as Express Mail on July 12, 2007 as evidenced by the attached Express Mail receipts, copy of the transmittal form which accompanied the amendment, and copy of the post card acknowledging receipt of the amendment, petition, and fee by the Patent Office. Moreover, the petition includes a statement by

attorney Lister certifying that he personally placed the amendment, extension of time and transmittal form by United States Postal Service Express Mail on July 12, 2007.

Petitioner's evidence has been considered. Petitioner has not shown compliance with the requirements of 37 CFR 1.10(e). The petition was filed promptly within the meaning of 37 CFR 1.10(e)(1). The petition includes a copy of the response as petitioner maintains it was originally deposited, the return postcard receipt and the Express Mail mailing label showing a date-in of July 12, 2007 as required by 37 CFR 1.10(e)(3). However, the copy of the response submitted on petition does not bear the Express Mail mailing label number. In order to be entitled to the benefit of 37 CFR 1.10, where as here the paper purported deposited into Express Mail was not received in the Office, applicant must establish that the Express Mail mailing label number was placed on the correspondence prior to the original mailing by Express Mail.

Nonetheless, petitioner has submitted *prima facie* evidence in the form of an itemized and date-stamped postcard that the response, including the extension of time, was timely filed on July 12, 2007. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's return postcard reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination on July 12, 2007; 2) it specifically identifies the items being filed, including an "Amendment (16 pages)", "Petition for Extension of Time Under 37CFR1.136(a)" and "Check in the amount of $60.00 for the petition fee," and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Accordingly, it is concluded that a response, made timely by a one-month extension of time, was filed on July 12, 2007.

The extension of time for response required to make the response timely was previously received in the Office on July 12, 2007 and is of record.

Accordingly, the Notice of Abandonment mailed October 16, 2007 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Receipt of the change of correspondence address filed November 29, 2007 is acknowledged and made of record.

Technology Center AU 3643 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's Technical Support Staff to withdraw the holding of abandonment and for consideration by the examiner of the amendment resubmitted on petition filed November 29, 2007.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEC 05 2006

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:
John D. Kriesel et al	:
Serial No.: 11/102,978	: PETITION DECISION
Filed: April 11, 2005	:
Attorney Docket No.: 0274-5537.1	:

This is in response to the petition under 37 CFR 1.103(d), filed April 11, 2005, requesting deferral of examination.

> A request for deferral of examination under 37 CFR 1.103(d) must include:
> (A) a period of suspension, in a whole number of months, not extending beyond three years from the earliest effective filing date (if the request includes no period of suspension or a period that exceeds the maximum period permitted under the rule, i.e., beyond 3 years from the earliest effective filing date, the Office will assume that the maximum period is requested);
> (B) the publication fee set forth in 37 CFR 1.18(d); and
> (C) the processing fee set forth in 37 CFR 1.17(i).
>
> In new applications, applicants may request a deferral of examination under 37 CFR 1.103(d) for a period not extending beyond three years from the earliest filing date for which a benefit is claimed under 35 U.S.C. 119(a)-(d), (e), (f), 120, 121, or 365. The request must be filed before the Office issues an Office action under 35 U.S.C. 132 or a notice of allowance in the application. ... For example, if an applicant files a request for deferral of examination under 37 CFR 1.103(d) for the maximum period permitted under the rule in an application that claims priority of a foreign application filed 1/3/00, the action by the Office on the application will be suspended and the application will automatically be placed in a regular new case status on the examiner's docket on 1/4/03 (36 months from the effective filing date of the application, i.e., 1/3/00).

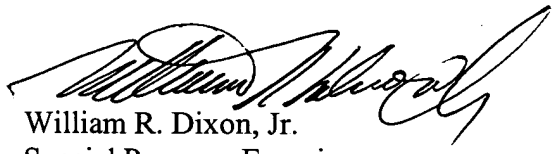
Applicants claim priority to a provisional application filed October 18, 2002. The maximum period of suspension thus expired on October 19, 2005. In view thereof the petition is moot.

It is also noted that the petition would have been dismissed, if it were not moot, due applicants failure to pay the publication fee under 37 CFR 1.18(d), as required.

The petition is **DISMISSED** as moot.

The application will be taken up for examination in turn.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.



William R. Dixon, Jr.
Special Program Examiner,
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BIOMEASURE, INCORPORATED
27 MAPLE STREET
MILFORD MA 01757-3650

COPY MAILED

MAR 24 2006

OFFICE OF PETITIONS

In re Application of
Barry A. Morgan et al.
Application No. 11/102,981
Filed: April 11, 2005
Attorney Docket Number: **00537-190003/69P/US/PCT2/**

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b),[1] filed February 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned July 26, 2005, for failure to timely reply to the Notice to File Corrected Application Papers mailed on May 25, 2005, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed January 31, 2006.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Receipt of the substitute specification in compliance with 37 CFR 1.52, 1.121(b)(3) and 1.125 is acknowledged.

The record reveals that a five month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $2160.00 extension of time fee submitted with the petition on February 16, 2006, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 06-1050.

The application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

COPY MAILED

SEP 14 2007

OFFICE OF PETITIONS

YOKOI & CO USA
13700 MARINA POINTE DR #723
MARINA DEL REY CA 90292

In re Application of	:	
Takayoshi Urisu	:	
Application No. 11/103,004	:	DECISION GRANTING PETITION
Filed: April 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P04-1029	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 13, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 21, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

DATE 9-17-07

APPLICATION NUMBER 10/103004

DOC CODE IDS

DOC DATE 9-14-07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : September 14, 2007

TO : Director, Office of Patent Publication

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 11/103,004**

Applicant(s) : Takayoshi Urisu
Application No. : 11/103,004
Filed : April 11, 2005

The above-identified application has been assigned Patent No. 7,274,087 and an issue date of September 25, 2007.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 25, 2007:

"All reference to Patent No. 7,274,087 to Takayoshi Urisu of Japan for A PRINTED CIRCUIT BOARD WITH SOLDERING LANDS appearing in the Official Gazette of September 25, 2007 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Duane Davis (CDS)
Brad Harris
Kim Terrell
Kay Pinkney
Betty Powell

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
11/103,026	04/11/2005	2882	1330	22177-0044-01	5	24	2

CONFIRMATION NO. 7505

CORRECTED FILING RECEIPT

OC000000016704467

26587
MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

Date Mailed: 08/05/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Donald Walker, Mundelein, IL;
David Pettinato, Schaumburg, IL;

Assignment For Published Patent Application

GENDEX CORPORATION, Washington, DC

Power of Attorney: The patent practitioners associated with Customer Number **26587**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/103,026

Projected Publication Date: 10/12/2006

Non-Publication Request: No

Early Publication Request: No

Title

Bite piece for a dental x-ray system

Preliminary Class

378

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).

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
11/103,053	04/11/2005	2882	1150	22177-0045-01	3	23	3

CONFIRMATION NO. 5725

CORRECTED FILING RECEIPT

OC000000016688371

26587
MCNEES, WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

Date Mailed: 08/04/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Roberto Molteni, Arlington Heights, IL;
Donald Walker, Mundelein, IL;

Assignment For Published Patent Application

GENDEX CORPORATION, Washington, DC

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 05/11/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/103,053

Projected Publication Date: 10/12/2006

Non-Publication Request: No

Early Publication Request: No

Title

X-ray tubehead housing with slant-angle partition

Preliminary Class

378

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).

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

STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

MAILED

MAR 0 3 2010

OFFICE OF PETITIONS

In re Patent No. 7, 584,256	: DECISION ON REQUEST
Osborne, et al.	: FOR
Issue Date: September 1, 2009	: RECONSIDERATION OF
Application No. 11/103,061	: PATENT TERM ADJUSTMENT
Filed: April 11, 2005	: and
Atty Docket No. 38089/130.1	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred seventy-eight (1,178) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred seventy-eight (1,178) 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 **one thousand, one hundred seventy-eight (1,178)** 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 : 7,584,256 B2

DATED : Sep. 1, 2009

INVENTOR(S) : Osborne, 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 (730) days

Delete the phrase "by 730 days" and insert – by 1,178 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

BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON, OH 44311

COPY MAILED

APR 15 2008

OFFICE OF PETITIONS

In re Application of :

MARTIN, David A. :
Application No. 11/103,066 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. **30236.28785** : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 26, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Heather M. Barnes on behalf of all attorneys of record who are associated with customer No. 26781. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There is an outstanding Office action mailed April 02, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DAVID A. MARTIN**
35521 QUATERMANE CIRCLE
BENTLEYVILLE, OHIO 44139

cc: **EMERSON, THOMSON & BENNETT**
777 WEST MARKET STREET
AKRON, OHIO 44303

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

MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 04/21/2010

Applicant	: Young-Ki Ha	: DECISION ON REQUEST FOR
Patent Number	: 7582890	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/103,078	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **398** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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 20 2005

BLACKWELL SANDERS PEPER MARTIN LLP
720 OLIVE STREET
SUITE 2400
ST. LOUIS MO 63101

In re Application of	:	
Jerry Fenc	:	
Serial No.: 11/103,106	:	DECISION ON PETITION
Filed: April 11, 2005	:	
For: Denture	:	

This is in response to applicants' petition filed April 11, 2005to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, 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

The Goodyear Tire & Rubber Company
Department 823
1144 East Market Street
Akron,OH 4316-0001

COPY MAILED

SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Ueyoko :
Application No. 11/103,110 : Decision on Petition
Filed: April 11, 2005 :
Attorney Docket No. DN2003042D01 :

This is a decision on the petition filed June 16, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that a sheet of drawings containing Figures 7 and 9 was part of the originally filed application.

The application was filed on April 11, 2005. On May 11, 2005, a Notice was mailed stating that Figures 7 and 9 described in the specification did not appear to be included as part of the application filed.

The present petition alleges that a sheet of drawings containing Figures 7 and 9 was deposited on April 11, 2005. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 7 sheets of drawings on April 11, 2005.[1]

The USPTO file for this application includes only 6 sheets of drawings and does not include the drawing sheet containing Figures 7 and 9 described in the specification. However, based on the evidence submitted, the Office concludes the missing drawing sheet was part of the application but were later misplaced. Therefore, the petition is **granted**.

The petition fee of $400 will be credited back to petitioner's deposit account.

The Notice mailed May 11, 2005, was sent in error and is hereby vacated.

The Office of Initial Patent Examination will further process the filing using a with a filing date of April 11, 2005, using the application papers filed on April 11, 2005, and the copy of on sheet of drawing containing Figures 7 and 9 filed on June 16, 2005.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 04/21/2010

Applicant	: Adam William Saxler	: DECISION ON REQUEST FOR
Patent Number	: 7626217	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/103,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **289** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

Mail Date: 05/18/2010

Applicant : Adam William Saxler
Patent Number : 7626217
Issue Date : 12/01/2009
Application No: 11/103,127
Filed : 04/11/2005

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **332** 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE/INDY/COOK
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS, IN 46204-4220

Mail Date: 04/21/2010

Applicant	: Brian C. Case	: DECISION ON REQUEST FOR
Patent Number	: 7582110	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/103,137	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **546** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

COPY MAILED

MAY 0 6 2009

OFFICE OF PETITIONS

In re Patent No. 7,417,063	:	
SMALLHEER et al.	:	DECISION ON
Issue Date: August 26, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 11/103,139	:	OF
Filed: April 11, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10206 NP	:	

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 October 24, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred (500) days to six hundred thirty-seven (637) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On August 26, 2008, the above-identified application matured into US Patent No. 7,417,063 with a patent term adjustment of 500 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 calendar day or days". Patentees maintain that the period of adjustment due to the Three Year Delay by the Office,

pursuant to 37 CFR 1.703(b), of 137 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 500 days do not overlap as these periods do not occur on the same day.

The 137-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on April 11, 2005, and the patent having been issued on August 26, 2008, three years and 137 days later. Patentees assert that in addition to this 137-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 500 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). A Restriction Requirement was mailed on October 24, 2007, 14 months and 500 days after the application was filed on April 11, 2005.

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 0 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 (137 days) and the period of Examination Delay (500 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 637 days, which is the sum of the period of Three Year Delay (137 days) and the period of Examination Delay (500 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 637 days (137 + 500 reduced by 0 overlap - 0 (applicant delay)).

The Office agrees that as of the issuance of the patent on August 26, 2008, the application was pending three years and 137

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 500 days is correct. At issue is whether patentees should accrue 137 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 500 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 137 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 April 12, 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, April 11, 2005, to the date the patent issued on August 26, 2008. Prior to the issuance of the patent, 500 days of patent term adjustment were

---

[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).

accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 137 days for Office delay in issuing the patent overlap with the 500 days of Office delay. During that time, the issuance of the patent was delayed by 500 days, not 500 + 137 days. The Office took 14 months and 500 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 500 days of Office delay and the 0 days of applicant 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 137 days. The Office did not delay 500 days and then an additional 137 days. Accordingly, 500 days of patent term adjustment (not 500 and 137 days) was properly entered because the period of delay of 137 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 500 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 500 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 137 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.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOLLAND & HART LLP
60 E. SOUTH TEMPLE, SUITE 2000
P.O. BOX 11583
SALT LAKE CITY UT 84110

MAILED

APR 02 2010

OFFICE OF PETITIONS

In re Application of :
John Avi Roop et al :
Application No. 11/103,150 : DECISION GRANTING PETITION
Filed: April 11, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 47563.00039 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 1, 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 March 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3773 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HAMILTON & TERRILE, LLP
P.O. BOX 203518
AUSTIN, TX 78720

COPY MAILED

AUG 31 2005

OFFICE OF PETITIONS

In re Application of :
Theresa M. Gosko :
Application No. 11/103,158 : ON PETITION
Filed: April 11, 2005 :
Attorney Docket No.: DC-02495A :

This is response to the communication filed June 23, 2005, which will be treated as a petition under 37 CFR 1.182, requesting that the above-identified application retain the presently accorded filing date with figures 17-1 through 23-24, as described in the specification, as part of the original disclosure.

The petition is **dismissed**.

On April 11, 2005, the above-identified application was filed. However, on May 19, 2005, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application", stating that application had been accorded a filing date of April 11, 2005, and advising applicant that Figures17-1 through 23-24 appeared to have been omitted.

In response, on June 23, 2005, applicant filed the present petition. Applicant does not indicate whether or not applicant desires to accept the date the omitted items were supplied as the filing date for the application, but applicant did not file a supplemental declaration which is required in order to accept the alter filing date. It is noted that the instant application is a continuation of a prior filed application and that the instant application incorporated by reference the entirety of the prior application.

The Notice permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the Office with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such omitted items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

An applicant may incorporate by reference the prior application by including in the application-as-filed, a statement that such specifically enumerated prior application or applications are hereby incorporated by reference. The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior applications(s) will permit an applicant to amend the divisional application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, Figures 17-1 through 23-24are not new matter if they were a part of the disclosure of the prior application. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of Figures 17-1 through 23-24.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 11, 2005, using only the application papers present on filing. The copies of the drawings filed with the petition will not be processed for examination, but will be kept in the application file.

The petition fee will not be refunded as this petition was necessitated by the applicant's filing error, rather than an error on the part of the Office.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 11, 2005.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZAGORIN O'BRIEN GRAHAM LLP
7600B N. CAPITAL OF TEXAS HWY, SUITE 350
AUSTIN, TX 78731

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Roy E. Scheuerlein :
Application No. 11/103,185 : ON PETITION
Filed: April 11, 2005 :
Attorney Docket No. 023-0022-3

This is a decision on the petition filed, March 9, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 27, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TROP, PRUNER & HU, P.C.
1616 S. VOSS RD., SUITE 750
HOUSTON, TX 77057-2631

Mail Date: 04/21/2010

Applicant	: David B. Chung	: DECISION ON REQUEST FOR
Patent Number	: 7595856	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/103,187	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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

RUPERT SAMUEL WILLIAMS JR. P.E.
343 YELLOWSTONE DRIVE
POWDER SPRINGS GA 30127

COPY MAILED

APR 3 0 2009

OFFICE OF PETITIONS

In re Application of :
Rupert Samuel Williams, Jr. :
Application No. 11/103,190 : ON PETITION
Filed: April 11, 2005 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 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 timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 5, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 6, 2008. The Notice of Abandonment was mailed January 9, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

The RCE filed herewith petition does not have the proper submission required by 37 CFR 1.114.

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.

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 Terri Williams at (571) 272-2991.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **THOMAS, KAYDEN, HORSTEMEYER & RISLEY LLP**
600 Galleria Parkway
Suite 1500
Atlanta, GA 30339

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

COPY MAILED

JUL 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Rupert Samuel Williams, Jr.	:	
Application No. 11/103,190	:	ON PETITION
Filed: April 11, 2005	:	
Attorney Docket No. 292304-1010	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 9, 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 June 5, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is September 6, 2008. The Notice of Abandonment was mailed January 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 a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Terri Williams
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HOFFMAN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

COPY MAILED

JAN 23 2006

OFFICE OF PETITIONS

In re Application of :
Russell G. Attridge Jr. :
Application No. 11/103,198 :
Filed: April 11, 2005 :
Attorney Docket No. 530-5 DIV :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed August 8, 2005, 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 months publication country on October 14, 2004. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen months publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;

(2) the petition fee as set forth in 37 CFR 1.17(m); and

(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 4, 2006 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3229.

This application matter is being referred to Technology Center Art Unit 3744 for examination in due course.

Retta Williams

Retta Williams
Petitions Examiner
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

Hamilton, Brook, Smith & Reynolds, P.C.
530 Virginia Road
P.O. Box 9133
Concord, MA 01742-9133

COPY MAILED

JUL 0 6 2007

OFFICE OF PETITIONS

In re Application of :
John E. Hoffmann et al. :
Application No. 11/103,202 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. 2479.1073-019 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 11, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on February 8, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Volpe and Koeing, P.C.**
Dept. ICC
United Plaza, Suite 1600
30 South 17th Street
Philadelphia, PA 19103

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

FROMMER LAWRENCE & HAUG, LLP.
10TH FLOOR
745 FIFTH AVENUE
NEW YORK NY 10151

COPY MAILED

JUN 14 2005

OFFICE OF PETITIONS

In re Application of
Toda, et al.
Application No. 11/103,213
Filed: April 11, 2005
Attorney Docket No. 450100-03858.1
For: SCREEN, ITS MANUFACTURING METHOD AND IMAGE DISPLAY SYSTEM

: DECISION ON
: PETITION

This is a decision on the petition filed May 20, 2005 (certificate of mailing date May 18, 2005), requesting, in effect, a withdrawal of a Notice mailed dated May 12, 2005 because the Notice alleges that page 75 of the specification was not among the papers filed on April 11, 2005. The petition will be treated under 37 CFR 1.182.

The application was filed on April 11, 2005. On May 12, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners that page 75 of the specification, appeared to have been omitted.

Petitioners request that page 75 be accorded a filing date of April 11, 2005 on the basis that 76 pages of specification, including page 75, were received in the Patent and Trademark Office (PTO) on April 11, 2005. In support, the instant petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing April 11, 2005 as the date of receipt. The postcard lists, *inter alia*, that the filing included 76 pages of specification.

It is not necessary to discuss petitioners' evidence because an independent review of the application file reveals that 76 pages of specification are present and, most importantly, **page 75 is present**. The May 12, 2005 Notice was incorrect.

Accordingly, the petition under 37 CFR 1.182 is **GRANTED**. No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **April 11, 2005.**

Thereafter, the application will be forwarded to Technology Center G.A.U. 2871 for examination in due course.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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

MAILED

SEP 12 2005

Director's Office
Group 3700

Joseph Carl Firey, Inventor
P.O. Box 15514
Seattle, WA 98115-0514

In re application of
Joseph Carl Firey

Serial Number: 11/103,228
Filed: April 12, 2005

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **MIXED FUEL COAL BURNER FOR GAS TURBINE ENGINES**

This is a decision on the petition filed on April 12, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only is Petitioner makes a prompt bona-fide effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the Examiner to accomplish this purpose.

Summary: Decision on Petition **GRANTED**.

Richard A. Bertsch
Director
Technology Center 3700
(571) 272-3750

rt: 9/9/05

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

OUR PAL ASIJA
ASIJA HOUSE
7 WOONSOCKET AVENUE
SHELTON CT 06484-5536

COPY MAILED

JAN 10 2007

OFFICE OF PETITIONS

In re Application of :
Diotte, Daniel :
Application No. 11/103,234 :
Filed: April11, 2005 :
Attorney Docket No. NPR0412CDD :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed November 21, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on February 17, 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.

This matter is being forwarded to Technology Center Art Unit 2627 for examination in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZAGORIN O'BRIEN GRAHAM LLP
7600B N. CAPITAL OF TEXAS HWY, SUITE 350
AUSTIN, TX 78731

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Roy E. Scheuerlein :
Application No. 11/103,249 : ON PETITION
Filed: April 11, 2005 :
Attorney Docket No. 023-0022-1

This is a decision on the petition filed, March 9, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 27, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED

JUL 20 2010

OFFICE OF PETITIONS

In re Application of :
Qing Stella et al. :
Application No. 11/103,253 : DECISION ON PETITION
Filed: April 11, 2005 :
Attorney Docket No. **9614M** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 21, 2010, to revive the above-identified application.

There is no indication that the person signing the 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 Matthew A. Molloy 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. If, Mr. Malloy desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 8, 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 September 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 1612 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Matthew A. Molloy
Dinsmore & Shohl LLP
Fifth Third Center
One South Main Street
Suite 1300
Dayton, OH 45402

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

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/05/2010

Applicant	: Steve C. Smith	: DECISION ON REQUEST FOR
Patent Number	: 7625190	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/103,272	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **457** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

MAY 25 2007

OFFICE OF PETITIONS

In re Application of
YI, Ye
Application No. 11/103,276
Filed: April 11, 2005
Attorney Docket No. 2603-6826US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 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 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **TECHNICAL SERVICES INTERNATIONAL, INC.**
40 SOUTH 600 EAST
SALT LAKE CITY, UT 84102

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

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY UT 84110

COPY MAILED

APR 25 2008

OFFICE OF PETITIONS

In re Application of :
YI, Ye :
Application No. 11/103,276 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. **2603-6826US** : 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 7, 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 Edgar Cataxinos 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.

The application became abandoned for failure to respond to the non-final office action mailed May 14, 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: **YE YI**
6718 SOUTH 2680 EAST
SALT LAKE CITY, UT 84121

cc: **TECHNICAL SEVICES INTERNATIONAL, INC.**
40 SOUTH 600 EAST
SALT LAKE CITY, UT 84102

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

TREXLER BUSHNELL GIANGIORGI
BLACKSTONE & MARR
105 WEST ADAMS STREET
SUITE 3600
CHICAGO, IL 60603

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of	:	
William F. Nordlin	:	DECISION GRANTING
Application No. 11/103,296	:	PETITION
Filed: April 11, 2005	:	
Attorney Docket No. 913/39548A	:	

This is a decision on the petition filed August 17, 2004, which is being treated as a petition under 37 CFR 1.53(e), requesting that the above-identified application be accorded a filing date of April 11, 2005, with page 18 as a part of the original disclosure.

The petition is **GRANTED**.

The application was filed on April 11, 2005. On May 13, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application (Notice)" stating that the application had been accorded a filing date of April 11, 2005, but that page 18 of the specification appeared to have been omitted from the application.

In response, on May 27, 2005, the petition contends that the allegedly omitted page 18 of the specification was filed with the application papers on April 11, 2005. In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing "22 specification pages." The petition also encloses a copy of page 18 purportedly filed on April 11, 2005.

In view of the evidence presented, the Office concludes that page 18 was filed on April 11, 2005, but was later misplaced. Accordingly, the petition is granted.

The $400.00 petition fee is being credited to Deposit Account No. 20-1495 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 the filing date of April 11, 2005, using the application papers filed on that date, and the copy of page 18 of the specification supplied with the present petition, and for indicating in the USPTO record that page 18 of the specification was present on filing.

Brian Hearn
Senior Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Paul G. Chan	: DECISION ON REQUEST FOR
Patent Number	: 7644221	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/103,319	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Kilpatrick Stockton LLP- Adobe Systems, Inc. 58083
Kilpatrick Stockton LLP
1100 Peachtree Street
Atlanta, GA 30309-4530

Mail Date: 04/21/2010

Applicant	: Nigel Pegg	: DECISION ON REQUEST FOR
Patent Number	: 7669141	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/103,344	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/11/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **673** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PALMER & DODGE, LLP
KATHLEEN M. WILLIAMS
111 HUNTINGTON AVENUE
BOSTON, MA 02199

In re Application of	:	
Clive Elson et al	:	
Application No. 11/103,354	:	ON PETITION
Filed: April 11, 2005	:	
Attorney Docket No. 4245/2033	:	

This is a decision on the petition filed December 29, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed June 14, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 15, 2006.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Publishing Division for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

TRELLIS INTELLECTUAL PROPERTY
LAW GROUP, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

COPY MAILED

JUN 13 2007

OFFICE OF PETITIONS

In re Application of :

PASCH, Nicholas F. et al. :
Application No. 11/103,359 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. **100115-000900US** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2006 and March 29, 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 Charles J. Kulas on behalf of all attorneys of record who are associated with customer No. 37490. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **NICHOLAS F. PASCH**
1470 DE SOLO DRIVE
PACIFICA, CA 94044-4004

cc: **MITCHELL AND CULP, PLLC**
ATTENTION: RICHARD M. MITCHELL, ESQ.
1001 MOREHEAD SQUIRE DRIVE
SUITE 330
CHARLOTTE, NC 28203-4268

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

Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

COPY MAILED

APR 27 2007

OFFICE OF PETITIONS

In re Application of :

Nicholas F. Pasch et al. :
Application No. 11/103,363 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. 100115-000110US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***termination of services***, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MITCHELL AND CULP, PLLC**
Attention: Richard M. Mitchell, Esq.
1001 Morehead Square Drive
Suite 330
Charlotte, NC 28203-4268

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

COPY MAILED

APR 27 2007

OFFICE OF PETITIONS

Trellis Intellectual Property Law Group, PC
1900 Embarcadero Road
Suite 109
Palo Alto, CA 94303

In re Application of :

Nicholas F. Pasch et al. :
Application No. 11/103,363 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. 100115-000110US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 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 Charles J. Kulas on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Nicholas F. Pasch**
1470 De Solo Drive
Pacifica, CA 94044-4004

cc: **Mitchell and Culp, PLLC**
Attn: Richard M. Mitchell, Esq.
1001 Morehead Square Drive
Charlotte, NC 28203-4268

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/103,363	04/11/2005	Nicholas F. Pasch	100115-000110US

CONFIRMATION NO. 7271

OC000000023568868

OC000000023568868

37490
Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

Date Mailed: 04/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Terri S. Williams

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EMPK & SHILOH, LLP
116 JOHN ST.
SUITE 1201
NEW YORK, NY 10038

COPY MAILED

AUG 29 2007

OFFICE OF PETITIONS

In re Application of :
Lusky, Eli :
Application No. 11/103,367 : DECISION ON PETITION
Filed: April 11, 2005 : TO WITHDRAW
Attorney Docket No. **ELG-P-7632-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 05, 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 to withdraw less than all attorneys appointed by customer number 43214 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

STETINA BRUNDA GARRED & BRUCKER
75 ENTERPRISE, SUITE 250
ALISO VIEJO, CA 92656

COPY MAILED

DEC 14 2006

OFFICE OF PETITIONS

In re Application of :
Marshall Duffield :
Application No. 11/103,382 : DECISION ON PETITION
Filed: April 11, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. DUFFY-005A : 37 CFR 1.102(d)
:

This is a decision on the petition under 37 CFR §1.102(d), filed June 5, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3617 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO IL 60606

COPY MAILED

MAR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Duck Ju Kim	:	
Application No. 11/103,383	:	DECISION GRANTING PETITION
Filed: April 11, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 29936/41067	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 14, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 20, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

WILSON SONSINI GOODRICH &
ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

MAILED

AUG 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,476,502	:	
James C. Willey	:	DECISION DISMISSING
Application No. 11/103,397	:	REQUEST FOR
Issue Date: January 13, 2009	:	RECONSIDERATION OF
Filed: April 11, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
31169-706.202	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), filed on March 9, 2009. Patentee requests that the determination of patent term adjustment be corrected from two hundred twenty-six (226) days to five hundred twelve (512) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 226 days.

BACKGROUND

This application was filed on April 11, 2005. On April 8, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 251 days[1]. On January 13, 2009, the application matured into U.S. Patent No. 7,476,502, with a revised patent term adjustment of 226 days. The Office determined that the 277 days of Office

[1] 382 days of Office delay was reduced by 131 days of applicant delay for a patent term adjustment of 251 days. No request for reconsideration of this initial determination was filed.

delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 448 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4).[4,5] As such, the Office allowed only entry of the adjustment of 448 (382 + 66) days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 222 days,[6] the patent issued with a revised patent term adjustment of 226 (448 - 222) days.

---

[2] Pursuant to 35 U.S.C. 154(b)(1)(B), 37 CFR 1.702(b) provides, in pertinent part, that:

> Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application.

[3] As of the issuance of the patent on January 13, 2009, the application was pending three years and 277 days.

[4] 37 CFR § 1.702, provides grounds for adjustment of patent term due to examination delay under the Patent Term Guarantee Act of 1999 (original applications, other than designs, filed on or after May 29, 2000).

> (a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:
> (1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;
> (4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

[5] A first Office action was not mailed until June 28, 2007, fourteen months and 382 days after the application filing date, April 11, 2005. The patent did not issue until January 13, 2009, four (4) months and 66 days after the payment of the issue fee on July 8, 2008.

[6] The applicant delay was calculated as follows: 84 days, in accordance with 37 CFR 1.704(b), for filing a response on December 21, 2007, three months and 84 days after the mailing of an Office action on June 28, 2007; 47 days, in accordance with 37 CFR 1.704(c)(7), for filing a reply correcting an omission on February 6, 2008, 47 days after the reply containing an omission was filed; 16 days, in accordance with 37 CFR 1.704(c)(10) for filing, on June

On March 9, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with authorization charge the required fee to counsel's deposit account), asserting that the correct number of days of Patent Term Adjustment is 512 days, based in part, under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 659 (382 + 277) days as these periods do not occur on the same day.

Patentee further asserts that the applicant delay calculation is incorrect. Specifically, patentee asserts that the period of delay of 75 days of applicant delay for filing of a supplemental paper (IDS) after the mailing of the notice of allowance is incorrect and should be removed.

OPINION

With regard to the 75 day period of delay under 37 CFR 1.704(c)(10), patentee is incorrect. In this regard, 37 CFR 1.704(d) states that a paper containing only an information disclosure statement in compliance with a §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in **any** communication from a foreign patent office in a counterpart application **and that this communication was not received** by any individual designated in § 1.56(c) **more than** thirty days prior to the filing of the

---

25, 2008, an amendment after the mailing of a notice of allowance in accordance with 37 CFR 1.312. On July 10, 2008, 16 days after the filing of the amendment after the mailing of a notice of allowance, a letter acknowledging receipt of the notice of allowance was mailed; 75 days, in accordance with 37 CFR 1.704(c)(10), for the filing, on June 13, 2008, of a supplemental paper (in this case, an information disclosure statement (IDS)) after the mailing of a notice of allowance. On September 11, 2008, 75 days after the filing of the IDS, the Office mailed a communication in response to the IDS.

information disclosure statement. (emphasis added)

The § 1.704(d) statement contained in the transmittal letter is not acceptable as the language in the statement in the transmittal letter does not track the language of 37 CFR 1.704(d). Accordingly, the IDS filed on June 13, 2008 is considered a failure to engage in reasonable efforts to conclude processing or examination. Therefore the reduction of 75 days for applicant delay is warranted and will not be removed.

With regard to the argument under 37 CFR 1.702(b), patentee's interpretation of the period of overlap has been considered, but found inconsistent with the Office's interpretation of the overlap provision, 35 U.S.C. 154(b)(2)(A). 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f)*[7] *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

---

[7] Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

> application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application (or, in an international application, the date that the national stage commenced under 35 U.S.C. 371(b) or (f)), is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the

application filing date, April 11, 2005, and ending on the date of the issuance of the patent, January 13, 2009 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) and (a)(4), 448 days of patent term adjustment were accorded during the pendency of the application for Office delay prior to the issuance of the patent. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 277 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 277 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 448 days of patent term adjustment under 37 CFR 1.702(a)(1) and (a)(4). Entry of both the 277 days and the 448 days is neither permitted nor warranted. 448 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 226 days.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to counsel's deposit account. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON MA 01720

MAILED

OCT 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Lawrence V. Stefani, et al.	:	
Application No. 11/103,401	:	ON PETITION
Filed: April 11, 2005	:	
Attorney Docket No. 160-092	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 7, 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) was obtained. Accordingly, the application became abandoned on June 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 2419 for appropriate action on the concurrently filed amendment.

Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

COPY MAILED

DEC 05 2008

OFFICE OF PETITIONS

In re Application of :
MANN, Eric N. :
Application No. 11/103,416 :
Filed: April 11 2005 :
Attorney Docket No. **0325.00104C** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue on or before June 20, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 20, 2007. Accordingly, the date of abandonment of this application is June 21, 2007.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of William E. Nuttle 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 in accordance with 37 CFR 1.34(a).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

RECEIVED
CENTRAL FAX CENTER
AUG 16 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Eric Mann	
Serial No.: 11/103,416	Examiner: Vu A. Le
Filed: April 11, 2005	Art Unit: 2824
Title: Microcontroller With Programmable Logic	Atty. Dkt. No.: 0325.00104C

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Petition for Revival of Unintentionally Abandoned Application Under 37 CFR 1.137(b)

Sir:

Applicant affirms that the entire delay from the due date for paying the issue fee for this application until the filing of this petition was unintentional. The delay in paying the issue fee is the result of substitution of the attorney of record and change of correspondence address.

The Commissioner is authorized to charge issue fee and the required petition fee under 37 CFR 1.17(m) to Cypress Semiconductor, Deposit Account No. 50-3781.

Respectfully submitted,
Eric Mann

Dated: August 16, 2007

By: _____
William E. Nuttle, Reg. No. 42,943
Attorney for the Applicant(s)

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO Attention: Mail Stop Petitions, Commissioner for Patents, fax number 571-273-8300 on the date shown below:			
Signature:			
Typed or Printed Name:	Penny C Jackson	Dated:	August 16, 2007

12/05/2008 CKHLOK 00000004 503781 11103416
01 FC:1501 1400.00 DA

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Sterne, Kessler, Goldstein & Fox
PLLC
1100 New York Avenue, N.W.
Washington, DC 20005

COPY MAILED

JAN 24 2008

OFFICE OF PETITIONS

In re Application of :
George W. McClurg et al. :
Application No. 11/103,426 :
Filed: April 12, 2005 :
Attorney Docket No. 1823.0530003 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 27, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by co-inventor John F. Carver. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

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 2624 action on the merits commensurate with this decision.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BUCHANAN INGERSOLL PC
(INCLUDING BURNS, DOANE, SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

COPY MAILED

JAN 11 2006

OFFICE OF PETITIONS

In re Application of	:	
Claude EYNARD et al.	:	
Application No. 11/103,442	:	DECISION ON PETITION
Filed: April 12, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 033818-192	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP03/011301, filed October 13, 2003, set forth in the amendment submitted August 31, 2005.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;

(2) the surcharge set forth in § 1.17(t); and

(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the

benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1733 for appropriate action on the amendment filed August 31, 2005, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

Brian Hearn
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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/103,446	04/12/2005	William Frederick Bosch	015290-976	8482

21839 7590 01/09/2008
BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

EXAMINER	
ZERVIGON, RUDY	
ART UNIT	**PAPER NUMBER**
1792	

NOTIFICATION DATE	DELIVERY MODE
01/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
debra.hawkins@bipc.com

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

wk

Mailed: 1-9-08

In re application of	:	
Bosch et al.	:	DECISION ON
Serial No. 11/103,446	:	PETITION
Filed: April 12, 2005	:	
For: Semiconductor Processing Equipment Having Improved Particle Performance	:	

This is a response to appellants Petition To The Director Under 37 C.F.R. 1.181(a) filed on September 27, 2007. The petition requests that the rejection of Claims 50-52 in the Examiner's Answer be designated a new ground of rejection.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **Dismissed**.

The Examiner's reliance upon Official Notice has been withdrawn. A Supplemental Examiner's Answer was mailed on December 28, 2007 reflecting this.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

COPY MAILED
AUG 25 2006
OFFICE OF PETITIONS

In re Application of :
Weill : DECISION ON PETITION
Application No. 11/103,499 :
Filed: April 12, 2005 :
Atty. Dkt. No.: 050237 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 9, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application was became abandoned July 18, 2006 for failure to timely submit a proper reply to the Office communication mailed May 17, 2006. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed January 30, 2006.

Petitioner alleges non-receipt of the Office communication. Petitioner indicates that a review of practitioner's mail log indicates non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office 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 non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the petitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had

it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The instant petition fails to comply with the above-referenced procedures. Any renewed petition must establish, as set forth above, non-receipt of the Office communication.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	**Mail Stop Petition** Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By hand delivery:	U.S. Patent and Trademark Office Customer Window, **Mail Stop Petition** Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

COPY MAILED
SEP 26 2006
OFFICE OF PETITIONS

In re Application of :
Weill : DECISION ON PETITION
Application No. 11/103,499 :
Filed: April 12, 2005 :
Atty. Dkt. No.: 050237 :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 15, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **GRANTED**.

This application was held abandoned for failure to timely submit a proper reply to the Office communication mailed May 17, 2005. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed January 30, 2006. A petition under 37 CFR 1.181 was filed February 9, 2006 and dismissed August 25, 2006.

Petitioner alleges non-receipt of the Office communication. Petitioner indicates that a review of practitioner's mail log indicates non-receipt of the Office communication.

In the absence of any irregularity in the mailing of the Office action, there is a strong presumption that the Office 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 non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the petitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments set forth by petition have been carefully considered and found convincing.

In view thereof, the holding of abandonment is hereby WITHDRAWN and the Notice of Abandonment is VACATED.

This application is being directed to the Office of Initial Patent Examination for re-mailing of the Notice. The time period for reply will be reset in the new Notice.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

PTO/SB/20 (01-07)
Approved for use through 12/31/2008. OMB 0651-0058
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 PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE JPO AND THE USPTO

Application No.:	11/103,525	First Named Inventor:	Yotsuhashi, Satoshi
Filing Date:	April 12, 2005	Attorney Docket No.:	071025-0014
Title of the Invention:	Method of Manufacturing Crystalline Film, Method of Manufacturing Crystalline-Film Layered Substrate, Method of Manufacturing Thermoelectric Conversion Element, and Thermoelectric Conversion Element		

THIS REQUEST FOR PARTICIPATION IN THE PPH PILOT PROGRAM MUST BE FAXED TO:
THE OFFICE OF THE COMMISSIONER FOR PATENTS AT 571-273-0125 DIRECTED TO THE ATTENTION OF MAGDALEN GREENLIEF

APPLICANT HEREBY REQUESTS PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM AND PETITIONS TO MAKE THE ABOVE-IDENTIFIED APPLICATION SPECIAL UNDER THE PPH PILOT PROGRAM.

The above-identified application validly claims priority under 35 U.S.C. 119(a) and 37 CFR 1.55 to one or more corresponding JPO application(s).

The JPO application number(s) is/are: JP 2005-515485

The filing date of the JPO application(s) is/are: April 7, 2005

I. List of Required Documents:

a. **A copy of all JPO office actions (excluding "Decision to Grant a Patent"*) in the above-identified JPO application(s).**

☐ Is attached.

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

*It is not necessary to submit a copy of the "Decision to Grant a Patent" and an English translation thereof.

b. **A copy of all claims which were determined to be patentable by the JPO in the above-identified JPO application(s).**

☑ Is attached.

☐ Is available via Dossier Access System. Applicant hereby requests that the USPTO obtain these documents via the Dossier Access System.

c. **English translations of the documents in a. and b. above along with a statement that the English translations are accurate are attached.**

Information disclosure statement listing the documents cited in the JPO office actions is attached.

Copies of all documents are attached except for U.S. patents or U.S. patent application publications.

This collection of information is required by 35 U.S.C. 119, 37 CFR 1.55, and 37 CFR 1.102(d). 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 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, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. FAX COMPLETED FORMS TO: Office of the Commissioner for Patents at 571-273-0125, Attention: Magdalen Greenlief.

PTO/SB/20 (01-07)
Approved for use through 12/31/2008. OMB 0651-0058
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 PARTICIPATION IN THE PATENT PROSECUTION HIGHWAY (PPH) PILOT PROGRAM BETWEEN THE JPO AND THE USPTO

(continued)

Application No.:	11/103,525	First Named Inventor:	Yotsuhashi, Satoshi

II. Claims Correspondence Table:

Claims in US Application	Patentable Claims in JP Application	Explanation regarding the correspondence
1-38	1-38	Claims

III. All the claims in the US application sufficiently correspond to the patentable/allowable claims in the JPO application.

IV. Payment of Fees:

The Commissioner is hereby authorized to charge the petition fee under 37 CFR 1.17(h) as required by 37 CFR 1.102(d) to ☑ Deposit Account No. 500417.

☐ Credit Card. Credit Card Payment Form (PTO-2038) is attached.

Signature	Date 7/16/07
Name (Print/Typed) Michael E. Fogarty	Registration Number 36,139

VERIFICATION OF TRANSLATION

U.S. Patent Application No. 11/103,525

Applicant: Satoshi YOTSUHASHI et al.

Filed on April 12, 2005

Title of the Invention:

METHOD OF MANUFACTURING CRYSTALLINE FILM, METHOD OF MANUFACTURING CRYSTALLINE-FILM-LAYERED SUBSTRATE, METHOD OF MANUFACTURING THERMOELECTRIC CONVERSION ELEMENT, AND THERMOELECTRIC CONVERSION ELEMENT

I, Koichi KAMADA, whose full post office address is c/o Seiran International Patent Firm, 7th Fl., Tomoe Marion Bldg., 4-3-1, Nishitenma, Kita-ku, Osaka-shi, Osaka 530-0047 Japan,

state that the following is a true translation to the best of my knowledge and belief of the claims of JP 2005-515485 (International Filing Date: November 16, 2004).

At Osaka, Japan

Dated this 18/ 06/ 2007 (Day/Month/Year)

Koichi KAMADA

English translation of the patented claims of JP 2005-515485

CLAIMS

1. A method of manufacturing a crystalline film, comprising the steps of:

epitaxially growing on a substrate a crystalline film including a layered structure so that the layered structure comes into contact with the substrate;

contacting water vapor supplied from a water vapor source with the layered structure in a chamber; and

separating the layered structure that has been contacted with the water vapor from the substrate to obtain the crystalline film;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

2. The method according to claim 1, wherein the layered structure is represented by the formula A_xCoO_2, where A is an alkali metal and x is a numerical value within the range $0 < x < 1$.

3. The method according to claim 1, wherein the layered structure is represented by the formula $A_x(Ti_{1-y}Co_y)O_2$, where A is an alkali metal, x is a numerical value within the range $0 < x < 1$, and y is a numerical value within the range $0 < y < 1$.

4. The method according to claim 1, wherein the crystalline film includes the layered structure, and a different structure being different from the layered structure and formed on the layered structure.

5. The method according to claim 4, wherein the different structure is a perovskite structure or a wurtzite structure.

6. The method according to claim 1, wherein the water vapor source that supplies the water vapor is disposed in the chamber.

7. The method according to claim 6, wherein the water vapor source is water or an aqueous solution.

8. A method of manufacturing a crystalline-film-layered substrate, comprising the steps of:

epitaxially growing on a first substrate a crystalline film including a layered structure so that the layered structure comes into contact with the substrate;

contacting water vapor supplied from a water vapor source with the layered structure in a chamber; and

separating the layered structure that has been contacted with the water vapor from the first substrate while contacting the crystalline film with a second substrate, to transfer the crystalline film from the first substrate onto the second substrate;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

9. The method according to claim 8, wherein the second substrate is a resin or a glass.

10. The method according to claim 8, wherein the layered structure is represented by the formula A_xCoO_2, where A is an alkali metal and x is a numerical value within the range $0 < x < 1$.

11. The method according to claim 8, wherein the layered structure is represented by the formula $A_x(Ti_{1-y}Co_y)O_2$, where A is an alkali metal, x is a numerical value within the range $0 < x < 1$, and y is a numerical value within the range $0 < y < 1$.

12. The method according to claim 8, wherein the crystalline film includes the layered structure, and a different structure being different from the layered structure and formed on the layered structure.

13. The method according to claim 12, wherein the different structure is a perovskite structure or a wurtzite structure.

14. The method according to claim 8, wherein the water vapor source that supplies the water vapor is disposed in the chamber.

15. The method according to claim 14, wherein the water vapor source is water or an aqueous solution.

16. A method of manufacturing a crystalline-film-layered substrate, comprising the steps of:

epitaxially growing on a first substrate a first crystalline film including a layered structure so that the layered structure comes into contact with the first substrate;

epitaxially growing on a second substrate a second crystalline film including a layered structure so that the layered structure comes into contact with the second substrate;

contacting water vapor supplied from a water vapor source with the layered structure of the first crystalline film and the layered structure of the second crystalline film in a chamber while the first crystalline film and the second crystalline film are being in contact with a third substrate; and

separating the first crystalline film and the second crystalline film from the first substrate and the second substrate, respectively, while keeping the first crystalline film and the second crystalline film into contact with the third substrate, to transfer the first crystalline film and the second crystalline film from the first substrate and the second substrate onto the third substrate;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

17. The method according to claim 16, wherein, while the third substrate is being sandwiched between the first crystalline film and the second crystalline film, the water vapor comes into contact with the layered structure of the first crystalline film and the layered structure of the second crystalline film.

18. The method according to claim 16, wherein the third substrate is a resin or a glass.

19. The method according to claim 16, wherein the layered structure is represented by the formula A_xCoO_2 or the formula $A_x(Ti_{1-y}Co_y)O_2$, where A is

an alkali metal, x is a numerical value within the range $0 < x < 1$, and y is a numerical value within the range $0 < y < 1$.

20. The method according to claim 16, wherein the crystalline film includes the layered structure, and a different structure being different from the layered structure and formed on the layered structure.

21. The method according to claim 20, wherein the different structure is a perovskite structure or a wurtzite structure.

22. The method according to claim 16, wherein the water vapor source that supplies the water vapor is disposed in the chamber.

23. The method according to claim 22, wherein the water vapor source is water or an aqueous solution.

24. A method of manufacturing a thermoelectric conversion element comprising a crystalline film that serves as a p-type thermoelectric conversion layer or an n-type thermoelectric conversion layer, the method comprising the steps of:

epitaxially growing on a substrate a crystalline film including a layered structure so that the layered structure comes into contact with the substrate;

contacting water vapor supplied from a water vapor source with the layered structure in a chamber; and

separating the layered structure that has been contacted with the water vapor from the substrate to obtain the crystalline film;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

25. The method according to claim 24, further comprising a step of disposing the crystalline film on a substrate made of resin or glass.

26. A method of manufacturing a thermoelectric conversion element comprising a crystalline-film-layered substrate in which a crystalline film serving as a p-type thermoelectric conversion layer or an n-type

thermoelectric conversion layer is disposed, the method comprising the steps of:

epitaxially growing on a first substrate a crystalline film including a layered structure so that the layered structure comes into contact with the substrate;

contacting water vapor supplied from a water vapor source with the layered structure in a chamber; and

separating the layered structure that has been contacted with the water vapor from the first substrate while contacting the thermoelectric conversion layer with a second substrate, to transfer the crystalline film from the first substrate onto the second substrate;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

27. A method of manufacturing a thermoelectric conversion element comprising a p-type crystalline-film-layered-substrate in which a crystalline film serving as a p-type thermoelectric conversion layer is disposed and an n-type crystalline-film-layered-substrate in which a crystalline film serving as an n-type thermoelectric conversion layer is disposed, the method comprising the steps of:

obtaining the p-type crystalline-film-layered-substrate and the n-type crystalline-film-layered-substrate, and

stacking the p-type crystalline-film-layered-substrate and the n-type crystalline-film-layered-substrate,

wherein each step of obtaining the p-type crystalline-film-layered-substrate and the n-type crystalline-film-layered-substrate comprises the following steps:

epitaxially growing on a first substrate a crystalline film including a layered structure so that the layered structure comes into contact with the substrate;

contacting water vapor supplied from a water vapor source with the layered structure in a chamber; and

separating the layered structure that has been contacted with the water vapor from the first substrate while contacting the thermoelectric conversion layer with a second substrate, to transfer the crystalline film from the first substrate onto the second substrate;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

28. The method according to claim 27, wherein two or more p-type crystalline-film-layered-substrates and two or more n-type crystalline-film-layered-substrates are stacked so that a substrate and either a p-type thermoelectric conversion layer or an n-type thermoelectric conversion layer are alternately arranged.

29. The method according to claim 28, wherein the two or more p-type crystalline-film-layered-substrates and the two or more n-type crystalline-film-layered-substrates are alternately stacked.

30. The method according to claim 27, wherein the p-type crystalline-film-layered-substrate and the n-type crystalline-film-layered-substrate are connected to each other on a surface of the substrate that is opposite to the surface on which the p-type thermoelectric conversion layer or the n-type thermoelectric conversion layer is formed to obtain a junction unit in which the p-type thermoelectric conversion layer and the n-type thermoelectric conversion layer are arranged on respective surfaces opposite to each other in the substrate on which the layers are joined.

31. The method according to claim 30, further comprising a step of removing portions of the p-type thermoelectric conversion layer and the n-type thermoelectric conversion layer to form a predetermined pattern.

32. The method according to claim 27, further comprising a step of forming an electrode electrically connecting the p-type thermoelectric conversion layer and the n-type thermoelectric conversion layer.

33. The method according to claim 26, wherein a crystalline-film-layered-substrate in which a crystalline film is arranged on a substrate made of resin or glass, is obtained.

34. A method of manufacturing a thermoelectric conversion element

comprising a crystalline-film-layered substrate in which a first crystalline film serving as a p-type thermoelectric conversion layer and a second crystalline film serving as an n-type thermoelectric conversion layer are disposed, the method comprising the steps of:

epitaxially growing on a first substrate a first crystalline film including a layered structure so that the layered structure comes into contact with the first substrate;

epitaxially growing on a second substrate a second crystalline film including a layered structure so that the layered structure comes into contact with the second substrate;

contacting water vapor supplied from a water vapor source with the layered structure of the first crystalline film and the layered structure of the second crystalline film in a chamber while the first crystalline film and the second crystalline film are being in contact with a third substrate; and

separating the first crystalline film and the second crystalline film from the first substrate and the second substrate, respectively, while keeping the first crystalline film and the second crystalline film into contact with the third substrate, to transfer the first crystalline film and the second crystalline film from the first substrate and the second substrate onto the third substrate;

wherein the layered structure includes a layer containing an alkali metal, and a layer containing an oxide of at least one element selected from the group consisting of Co, Fe, Ni, Mn, Ti, Cr, V, Nb, and Mo.

35. The method according to claim 34, wherein the crystalline-film-layered substrate is obtained in which the p-type thermoelectric conversion layer is arranged on a first surface and the n-type thermoelectric conversion layer is arranged on a second surface that is opposite to the first surface.

36. The method according to claim 34, further comprising a step of removing portions of the p-type thermoelectric conversion layer and the n-type thermoelectric conversion layer to form a predetermined pattern.

37. The method according to claim 34, further comprising a step of forming an electrode electrically connecting the p-type thermoelectric conversion layer and the n-type thermoelectric conversion layer.

38. The method according to claim 34, wherein a crystalline-film-layered substrate in which a crystalline film is arranged on a substrate made of resin or glass, is obtained.

(19)日本国特許庁(JP)　(12)特　許　公　報(B2)　(11)特許番号
特許第3803365号
(P3803365)
(45)発行日　平成18年8月2日(2006.8.2)　(24)登録日　平成18年5月12日(2006.5.12)

(51)Int.Cl.		F I		
C23C 14/58	(2006.01)	C23C	14/58	Z
C23C 16/01	(2006.01)	C23C	16/01	
H01L 35/34	(2006.01)	H01L	35/34	

請求項の数 38　(全 16 頁)

(21)出願番号	特願2005-515485 (P2005-515485)
(86)(22)出願日	平成16年11月16日 (2004.11.16)
(86)国際出願番号	PCT/JP2004/017006
(87)国際公開番号	WO2005/047560
(87)国際公開日	平成17年5月26日 (2005.5.26)
審査請求日	平成17年4月7日 (2005.4.7)
(31)優先権主張番号	特願2003-386604 (P2003-386604)
(32)優先日	平成15年11月17日 (2003.11.17)
(33)優先権主張国	日本国 (JP)

早期審査対象出願

(73)特許権者　000005821
松下電器産業株式会社
大阪府門真市大字門真１００６番地
(74)代理人　100107641
弁理士　鎌田　耕一
(74)代理人　100115152
弁理士　黒田　茂
(72)発明者　四槻　聡史
大阪府門真市大字門真１００６番地　松下電器産業株式会社内
(72)発明者　足立　秀明
大阪府門真市大字門真１００６番地　松下電器産業株式会社内

最終頁に続く

(54)【発明の名称】結晶膜の製造方法、結晶膜付き基体の製造方法、および熱電変換素子の製造方法

(57)【特許請求の範囲】

【請求項１】

基体上に層状構造を含む結晶膜を前記層状構造が前記基体と接するようにエピタキシャル成長させる工程と、

水蒸気供給源から供給される水蒸気をチャンバー内において前記層状構造に接触させる工程と、

前記水蒸気と接触した層状構造と前記基体とを分離することにより、前記結晶膜を得る工程と、を含み、

前記層状構造が、アルカリ金属を含む層と、Ｃｏ，Ｆｅ，Ｎｉ，Ｍｎ，Ｔｉ，Ｃｒ，Ｖ，ＮｂおよびＭｏからなる群より選ばれる少なくとも１種の元素の酸化物を含む層と、を含む、結晶膜の製造方法。

【請求項２】

前記層状構造が式A_xCoO_zにより示される請求項１に記載の製造方法。

ただし、Ａはアルカリ金属であり、ｘは０＜ｘ＜１の範囲にある数値である。

【請求項３】

前記層状構造が式$A_x(Ti_{1-y}Co_y)O_z$により示される請求項１に記載の製造方法。

ただし、Ａはアルカリ金属であり、ｘは０＜ｘ＜１の範囲にある数値であり、ｙは０＜ｙ＜１の範囲にある数値である。

【請求項４】

前記結晶膜が、前記層状構造と、前記層状構造の上に形成された前記層状構造とは異な

る構造とを含む請求項１に記載の製造方法。

【請求項５】

前記異なる構造がペロブスカイト構造またはウルツ鉱構造である請求項４に記載の製造方法。

【請求項６】

前記チャンバー内に配置した前記水蒸気供給源から前記水蒸気を供給する請求項１に記載の製造方法。

【請求項７】

前記水蒸気供給源が水または水溶液である請求項６に記載の製造方法。

【請求項８】

第１の基体上に層状構造を含む結晶膜を前記層状構造が前記基体と接するようにエピタキシャル成長させる工程と、

水蒸気供給源から供給される水蒸気をチャンバー内において前記層状構造に接触させる工程と、

前記結晶膜と第２の基体とを接触させながら、前記水蒸気と接触した層状構造と前記第１の基体とを分離することにより、前記結晶膜を前記第１の基体上から前記第２の基体上へと移動させる工程と、を含み、

前記層状構造が、アルカリ金属を含む層と、Ｃｏ，Ｆｅ，Ｎｉ，Ｍｎ，Ｔｉ，Ｃｒ，Ｖ，ＮｂおよびＭｏからなる群より選ばれる少なくとも１種の元素の酸化物を含む層と、を含む、結晶膜付き基体の製造方法。

【請求項９】

前記第２の基体が、樹脂またはガラスである請求項８に記載の製造方法。

【請求項１０】

前記層状構造が式A_xCoO_2により示される請求項８に記載の製造方法。

ただし、Ａはアルカリ金属であり、ｘは０＜ｘ＜１の範囲にある数値である。

【請求項１１】

前記層状構造が式$A_x(Ti_{1-y}Co_y)O_2$により示される請求項８に記載の製造方法。

ただし、Ａはアルカリ金属であり、ｘは０＜ｘ＜１の範囲にある数値であり、ｙは０＜ｙ＜１の範囲にある数値である。

【請求項１２】

前記結晶膜が、前記層状構造と、前記層状構造の上に形成された前記層状構造とは異なる構造とを含む請求項８に記載の製造方法。

【請求項１３】

前記異なる構造がペロブスカイト構造またはウルツ鉱構造である請求項１２に記載の製造方法。

【請求項１４】

前記チャンバー内に配置した前記水蒸気供給源から前記水蒸気を供給する請求項８に記載の製造方法。

【請求項１５】

前記水蒸気供給源が水または水溶液である請求項１４に記載の製造方法。

【請求項１６】

第１の基体上に層状構造を含む第１の結晶膜を前記層状構造が前記第１の基体と接するようにエピタキシャル成長させる工程と、

第２の基体上に層状構造を含む第２の結晶膜を前記層状構造が前記第２の基体と接するようにエピタキシャル成長させる工程と、

前記第１の結晶膜および前記第２の結晶膜と第３の基体とが接触した状態で、水蒸気供給源から供給される水蒸気をチャンバー内において前記第１の結晶膜の層状構造および前記第２の結晶膜の層状構造に接触させる工程と、

前記第１の結晶膜および前記第２の結晶膜と前記第３の基体との接触を保ちながら、前記第１の結晶膜と前記第１の基体および前記第２の結晶膜と前記第２の基体をそれぞれ分

離することにより、前記第１の結晶膜および前記第２の結晶膜を前記第１の基体上および前記第２の基体上から前記第３の基体上へと移動させる工程と、を含み、

前記層状構造が、アルカリ金属を含む層と、Ｃｏ，Ｆｅ，Ｎｉ，Ｍｎ，Ｔｉ，Ｃｒ，Ｖ，ＮｂおよびＭｏからなる群より選ばれる少なくとも１種の元素の酸化物を含む層と、を含む、結晶膜付き基体の製造方法。

【請求項１７】

前記第１の結晶膜と前記第２の結晶膜とにより前記第３の基体を挟持した状態で、前記水蒸気を前記第１の結晶膜の層状構造および前記第２の結晶膜の層状構造に接触させる請求項１６に記載の製造方法。

【請求項１８】

前記第３の基体が、樹脂またはガラスである請求項１６に記載の製造方法。

【請求項１９】

前記層状構造が式A_xCoO_2または式$A_x(Ti_{1-y}Co_y)O_2$により示される請求項１６に記載の製造方法。

ただし、Ａはアルカリ金属であり、ｘは０＜ｘ＜１の範囲にある数値であり、ｙは０＜ｙ＜１の範囲にある数値である。

【請求項２０】

前記結晶膜が、前記層状構造と、前記層状構造の上に形成された前記層状構造とは異なる構造とを含む請求項１６に記載の製造方法。

【請求項２１】

前記異なる構造がペロブスカイト構造またはウルツ鉱構造である請求項２０に記載の製造方法。

【請求項２２】

前記チャンバー内に配置した前記水蒸気供給源から前記水蒸気を供給する請求項１６に記載の製造方法。

【請求項２３】

前記水蒸気供給源が水または水溶液である請求項２２に記載の製造方法。

【請求項２４】

請求項１に記載の方法により、ｐ型熱電変換層またはｎ型熱電変換層となる結晶膜を得る工程を含む、熱電変換素子の製造方法。

【請求項２５】

前記結晶膜を樹脂またはガラスである基体上に配置する工程をさらに含む請求項２４に記載の製造方法。

【請求項２６】

請求項８に記載の方法により、ｐ型熱電変換層またはｎ型熱電変換層となる結晶膜が配置された結晶膜付き基体を得る工程を含む、熱電変換素子の製造方法。

【請求項２７】

前記結晶膜付き基体を得る工程において、ｐ型熱電変換層となる結晶膜が配置されたｐ型ユニットと、ｎ型熱電変換層となる結晶膜が配置されたｎ型ユニットとを得て、

前記ｐ型ユニットと前記ｎ型ユニットとを積層する工程をさらに含む請求項２６に記載の製造方法。

【請求項２８】

２以上のｐ型ユニットと２以上のｎ型ユニットとをｐ型熱電変換層またはｎ型熱電変換と基体とが交互に配置されるように積層する請求項２７に記載の製造方法。

【請求項２９】

前記２以上のｐ型ユニットと前記２以上のｎ型ユニットとを交互に積層する請求項２８に記載の製造方法。

【請求項３０】

前記ｐ型ユニットと前記ｎ型ユニットとをｐ型熱電変換層またはｎ型熱電変換層が形成された面と反対側の基体の面で互いに接合することにより、前記ｐ型熱電変換層と前記ｎ

型熱電変換層とが接合された基体において互いに反対側の面に配置された結合ユニットを得る、請求項２７に記載の製造方法。

【請求項３１】

前記ｐ型熱電変換層および前記ｎ型熱電変換層の一部を除去して所定のパターンとする工程をさらに含む請求項３０に記載の製造方法。

【請求項３２】

前記ｐ型熱電変換層と前記ｎ型熱電変換層とを電気的に接続する電極を形成する工程をさらに含む請求項２７に記載の製造方法。

【請求項３３】

樹脂またはガラスである基体の上に結晶膜が配置された結晶膜付き基体を得る請求項２６に記載の製造方法。

【請求項３４】

請求項１６に記載の方法により、ｐ型熱電変換層となる第１の結晶膜およびｎ型熱電変換層となる第２の結晶膜が配置された結晶膜付き基体を得る工程を含む、熱電変換素子の製造方法。

【請求項３５】

第１面にｐ型熱電変換層が配置され、前記第１面と反対側の第２面にｎ型熱電変換層が配置された結晶膜付き基体を得る請求項３４に記載の製造方法。

【請求項３６】

前記ｐ型熱電変換層および前記ｎ型熱電変換層の一部を除去して所定のパターンとする工程をさらに含む請求項３４に記載の製造方法。

【請求項３７】

前記ｐ型熱電変換層と前記ｎ型熱電変換層とを電気的に接続する電極を形成する工程をさらに含む請求項３４に記載の製造方法。

【請求項３８】

樹脂またはガラスである基体の上に結晶膜が配置された結晶膜付き基体を得る請求項３４に記載の製造方法。

【発明の詳細な説明】

【技術分野】

【０００１】

本発明は、結晶膜および結晶膜付き基体の製造方法に関し、およびこの方法を用いた熱電変換素子の製造方法に関する。

【背景技術】

【０００２】

熱電発電は、ゼーベック効果、すなわち物質の両端に温度差を設けるとその温度差に比例して熱起電力が生じる現象、を利用して熱エネルギーを直接電気エネルギーに変換する技術である。熱起電力は、外部に負荷を接続し、閉回路を構成することにより、電力として取り出される。この技術は、僻地用電源、宇宙用電源、軍事用電源等として実用化されている。

【０００３】

熱電冷却は、ペルチェ効果、すなわちキャリアの符号が異なる２つの物質、例えばｐ型半導体とｎ型半導体、を熱的に並列に、かつ電気的に直列に接続して電流を流したときに、キャリアの符号の違いが熱流の向きの違いに反映する現象、を利用して接合部を吸熱する技術である。この技術は、宇宙ステーションにおける電子機器の局所冷却装置、ワインクーラー等として実用化されている。

【０００４】

熱電変換材料の特性は、性能指数Ｚまたは絶対温度をかけて無次元化された性能指数ＺＴで評価される。ＺＴは、物質のＳ、ρ、κ、すなわちＳ：ゼーベック係数、ρ：電気抵抗率、κ：熱伝導率、を用い、$ZT=S^2/\rho\kappa$で記述される指数である。これを指標として、現在、優れた熱電変換性能を有する材料が探索されている。

【０００５】
熱電変換素子の新たな用途、例えば携帯電話、パソコン等の電子機器の局所冷却、ウエアラブル電子機器の発電装置、では、基体上に熱電変換材料を薄膜として形成した熱電変換素子が必要不可欠になると考えられている。基体とこの上に形成した熱電変換層とを含む熱電変換素子では、熱電変換層の熱伝導よりも基体の熱伝導が支配的になる。このため、高い性能指数を有する熱電変換材料からなる熱電変換層の両端に大きな温度差を生じさせても、基体の熱伝導がその温度差を緩和する。層の膜厚は高々数μｍであるのに対し、基体の厚さは薄くても数百μｍであるから、基体の熱伝導による性能の劣化は深刻である。

【０００６】
特開昭６２－１７７９８５号公報には、一方の表面にｐ型熱電変換層を、他方の表面にｎ型熱電変換層をそれぞれ形成したガラスまたはセラミックスからなる基体を、接着剤を介して積層してなる熱電変換素子が開示されている。

【０００７】
特開平１０－７４９８７号公報には、フィルムの一方の表面にｐ型熱電変換層を、他方の表面にｎ型熱電変換層をそれぞれ形成した熱電変換素子が開示されている。フィルムとしては、金属フィルムとともに、ポリイミド等の合成樹脂からなるフィルムが開示されている。

【０００８】
ガラスや樹脂のような熱伝導率が低い基体を用いると、基体の熱伝導による熱電変換性能の劣化を抑制できる。しかし、樹脂やガラスを基体とすると、基体上に熱電変換層をエピタキシャル成長させることができない。このため、基体の熱伝導を抑制できても、熱電変換性能に優れた熱電変換層を形成できないという問題が残る。

【０００９】
この他、本発明に関連する文献として、特開２００２－３１６８９８号公報を挙げることができる。この文献の実施例２には、窒化ガリウムが形成されたサファイア基板を水蒸気に曝して窒化ガリウムとサファイア基板とを分離することが開示されている。

【発明の開示】

【００１０】
上記の問題は、基体上にエピタキシャル成長させた良質の熱電変換層を基体から分離し、この熱電変換層を樹脂等からなる別の基体上に移動させれば解決する。エピタキシャル成長させた結晶膜を基体から剥がすことは容易ではないから、この結晶膜を基体から分離するには、現実には、プラズマエッチング等による基体の除去が必要となる。しかし、プラズマエッチング等による基体の除去では、薄膜が損傷しやすく、基体を再利用することもできない。可溶性の基体、または基体上に形成した可溶性の下地層の上に結晶膜を形成し、溶媒を用いて可溶性の基体や層を除去すれば、基体から分離した結晶膜を得ることはできる。しかし、可溶性の基体や層の材料には制限があるため、これらの上にエピタキシャル成長により熱電変換層を形成することは困難である。

【００１１】
熱電変換素子に限らず他の機能素子においても、エピタキシャル成長に適した基体と使用に際して望ましい基体とが一致しないことがある。そこで、本発明は、基体上にエピタキシャル成長により形成した薄膜をその基体から分離する新たな方法を提案し、この方法を用いる結晶膜の製造方法および結晶膜付き基体の製造方法を提供することを目的とする。また、本発明の別の目的は、この方法を用いる熱電変換素子の製造方法の提供にある。

【００１２】
本発明は、基体上に形成した所定の層状構造が水蒸気の作用によって分離するという新たな知見に基づいて完成された。すなわち、本発明の結晶膜の製造方法は、基体上に層状構造を含む結晶膜を前記層状構造が前記基体と接するようにエピタキシャル成長させる工程と、水蒸気供給源から供給される水蒸気をチャンバー内において前記層状構造に接触させる工程と、前記層状構造と前記基体とを分離することにより、前記結晶膜を得る工程と

、を含む。

【００１３】

前記層状構造は、アルカリ金属を含む層と、Ｃｏ，Ｆｅ，Ｎｉ，Ｍｎ，Ｔｉ，Ｃｒ，Ｖ，ＮｂおよびＭｏからなる群より選ばれる少なくとも１種の元素の酸化物を含む層と、を含むことを特徴とする。

【００１４】

本発明の結晶膜付き基体の製造方法は、第１の基体上に層状構造を含む結晶膜を前記層状構造が前記基体と接するようにエピタキシャル成長させる工程と、水蒸気供給源から供給される水蒸気をチャンバー内において前記層状構造に接触させる工程と、前記結晶膜と好ましくは樹脂またはガラスである第２の基体とを接触させながら、前記水蒸気と接触した層状構造と前記第１の基体とを分離することにより、前記結晶膜を前記第１の基体上から前記第２の基体上へと移動させる工程と、を含む。前記層状構造は、上記と同じ特徴を有する。

【００１５】

本発明の結晶膜付き基体の別の製造方法は、第１の基体上に層状構造を含む第１の結晶膜を前記層状構造が前記第１の基体と接するようにエピタキシャル成長させる工程と、第２の基体上に層状構造を含む第２の結晶膜を前記層状構造が前記第２の基体と接するようにエピタキシャル成長させる工程と、前記第１の結晶膜および前記第２の結晶膜と好ましくは樹脂またはガラスである第３の基体とが接触した状態で、水蒸気供給源から供給される水蒸気をチャンバー内において前記第１の結晶膜の層状構造および前記第２の結晶膜の層状構造に接触させる工程と、前記第１の結晶膜および前記第２の結晶膜と前記第３の基体との接触を保ちながら、前記第１の結晶膜と前記第１の基体および前記第２の結晶膜と前記第２の基体をそれぞれ分離することにより、前記第１の結晶膜および前記第２の結晶膜を前記第１の基体上および前記第２の基体上から前記第３の基体上へと移動させる工程と、を含む。前記層状構造は、上記と同じ特徴を有する。第１の結晶膜の層状構造および第２の結晶膜の層状構造への水蒸気の供給は、例えば、第１の結晶膜と第２の結晶膜とにより第３の基体を挟持した状態で行うとよい。

【００１６】

本発明は、さらに、熱電変換素子の製造方法を提供する。この製造方法の第１は、上記結晶膜の製造方法により、ｐ型熱電変換層またはｎ型熱電変換層となる結晶膜を得る工程を含む方法である。この結晶膜は、樹脂またはガラスである基体上に配設して使用することが好ましい。上記製造方法の第２は、上記結晶膜付き基体の製造方法により、ｐ型熱電変換層またはｎ型熱電変換層となる結晶膜が配設された結晶膜付き基体を得る工程を含む方法である。上記製造方法の第３は、上記結晶膜付き基体の別の製造方法により、ｐ型熱電変換層となる第１の結晶膜およびｎ型熱電変換層となる第２の結晶膜が配設された結晶膜付き基体を得る工程を含む方法である。

【００１９】

本発明の方法によれば、層状構造への水蒸気の作用によってエピタキシャル成長した結晶膜が基体から分離可能となる。この方法によれば、プラズマエッチング等による基体の除去を伴う分離とは異なり、薄膜に損傷を与えることがなく、薄膜の成長に用いた基体を再利用することもできる。本発明によれば、エピタキシャル成長させた良質の結晶膜を得ることができ、この結晶膜は、組成を適切に選択すれば、ｐ型熱電変換層またはｎ型熱電変換層として機能する。こうして得た熱電変換層を用いると、熱伝導率が低い樹脂またはガラスからなる基体の上に、結晶方位がそろった良質の熱電変換層を配置した、優れた熱電変換性能を有する熱電変換素子を得ることができる。

【発明を実施するための最良の形態】

【００２０】

基体上にエピタキシャル成長した結晶膜を、機械的な応力のみにより、使用に耐えうる状態を保ちながら当該基体から分離することは不可能である。本発明では、結晶膜が所定の層状構造を含むようにエピタキシャル成長させ、この層状構造に、水蒸気を供給する処

理を行うこととした。この処理により層状構造を含む結晶膜と基体とは分離可能となる。

【００２１】

現段階では、水蒸気との接触により上記層状構造が基体から分離可能となる理由の詳細を説明することはできない。しかし、水（液体状態にある水）との接触では、上記層状構造が基体から分離可能とならず、また溶解もせず基体上に残存することを考慮すると（後述する比較例を参照）、水蒸気との接触により分離可能となるのは、少なくとも、水分子の侵入に伴う層状構造の膨張が関与していると考えられる。この点において、特開２００２－３１６８９８号公報とは決定的に異なる。この公報の実施例１では、液体状体の水を用いても窒化ガリウムとサファイア基板とを分離できると開示されている。

【００２２】

水蒸気と十分に接触させると、層状構造を含む結晶膜はごく小さな応力で基体から離れ、場合によっては自然に剥離する。基体の姿勢によっては、重力によって基体と結晶膜とが分離することもある。このように、本発明の方法における分離工程は、必ずしも、機械、人手等により行うことを要しない。また、基体と層状構造を含む結晶膜とを分離する応力を加えながら層状構造に水蒸気を接触させ、層状構造と基体とが当該応力により分離可能となった段階で直ちにこれらを分離してもよい。

【００２３】

層状構造は、アルカリ金属を含む層ａと、Ｃｏ，Ｆｅ，Ｎｉ，Ｍｎ，Ｔｉ，Ｃｒ，Ｖ，ＮｂおよびＭｏからなる群より選ばれる少なくとも１種の元素の酸化物を含む層ｂと、を含んでいればよく、例えば、層ａと層ｂとが交互に積層した構造であってもよい。

【００２４】

このような層状構造には、それ自体が熱電変換機能を有するものがある。式A_xCoO_2により示される層状構造はｐ型熱電変換層となる。ここで、Ａはアルカリ金属、好ましくはナトリウムであり、ｘは０＜ｘ＜１の範囲にある数値である。また、式$A_x(Ti_{1-y}Co_y)O_2$により示される層状構造はｎ型熱電変換層となる。ここで、Ａはアルカリ金属、好ましくはナトリウムであり、ｘは０＜ｘ＜１の範囲にある数値であり、ｙは０＜ｙ＜１の範囲にある数値である。例えば、Na_xCoO_2層は、強相関電子系による伝導層であるCoO_2層と、乱れた絶縁層であるＮａ層とが交互に積層した構造を有する。CoO_2層による高い電力因子とＮａ層による低い熱伝導率とにより、この層は優れた熱電変換特性を有する。

【００２５】

基体上にエピタキシャル成長させる結晶膜は、その全部が上記層状構造から構成されている必要はない。例えば、この結晶膜は、上記層状構造と、上記層状構造の上に形成された上記層状構造とは異なる構造とを含む膜であってもよい。この「異なる構造」は、上記層状構造の上にエピタキシャル成長させることが可能な膜であれば特に制限はなく、例えば、ペロブスカイト構造またはウルツ鉱構造が挙げられる。「異なる構造」を用いれば熱電変換特性以外の特性を結晶膜に導入することが容易となる。

【００２６】

上記層状構造の上に、ペロブスカイト構造を有する圧電層、例えば$BaTiO_3$、$KNbO_3$、$NaNbO_3$、$Pb(Zr,Ti)O_3$、$Pb(Mg,Nb,Ti)O_3$、$(Pb,La)(Zr,Ti)O_3$、を形成すると、圧電特性を有する結晶膜を得ることができる。

【００２７】

上記層状構造の上に、ペロブスカイト構造を有する焦電層、例えば$BaTiO_3$、$LiNbO_3$、$LiTaO_3$、$(Pb,La)TiO_3$、$(Pb,Ca)TiO_3$、を形成すると、焦電特性を有する結晶膜を得ることができる。

【００２８】

上記層状構造の上に、ペロブスカイト構造を有する誘電層、例えば$BaTiO_3$、$(Ba,Sr)TiO_3$、$SrTiO_3$、を形成すると、誘電特性を有する結晶膜を得ることができる。

【００２９】
上記「異なる構造」として、熱電変換機能を有する層、例えば、ウルツ鉱構造を有するＡｌをドープしたＺｎＯ層、を形成してもよい。
【００３０】
結晶膜を成長させるための基体（以下、「成長基体」ということがある）は、上記層状構造をエピタキシャル成長させることができる限り制限はなく、サファイア等のセラミック基板を適宜用いればよい。
【００３１】
結晶膜の成長のために用いる成膜法についても、層状構造を含む結晶膜のエピタキシャル成長が可能である限り特に制限はなく、スパッタリング法、レーザーアブレーション法、化学蒸着法（ＣＶＤ法）等を適宜用いればよい。
【００３２】
結晶膜の膜厚は、結晶膜に付与すべき機能等に応じて適宜選択すればよい。本発明を適用すればごく薄い結晶膜であっても、成長基体から容易に分離できる。結晶膜の膜厚としては５ｎｍ以上を例示できる。
【００３３】
層状構造と水蒸気との接触はチャンバー内で行うとよい。水蒸気は、チャンバー内に配置した水蒸気供給源から供給するのが簡便であるが、チャンバー外に配置した水蒸気供給源から配管を介して水蒸気を供給してもよい。水蒸気供給源は、水蒸気が発生する限り特に制限はないが、水または水溶液で足りる。特に水蒸気供給源をチャンバー内に配置する場合には、チャンバーを密閉し、水または水溶液をチャンバー内に収容しておくとよい。密閉したチャンバーは、温度および湿度の制御に有利である。水蒸気の供給は、チャンバー内を加熱しながら行ってもよい。層状構造に接触する単位時間あたりの水蒸気量を増やすと、層状構造が分離可能となるまでに要する時間を相対的に短縮できるからである。
【００３４】
成長基体から分離した結晶膜は、用途に応じて選択した基体（以下、「使用基体」ということがある）上に配置して用いるとよい。熱電変換層については、上述の理由から、樹脂またはガラスからなる基体が使用基体としては適している。樹脂は、相対的に低い熱伝導率を有し、加工も容易であるため、特に好ましい使用基体である。使用基体上への結晶膜の固定は、必要に応じ、接着剤等を用いて行うとよい。
【００３５】
層状構造を含む結晶膜と使用基体との接触は、結晶膜を成長基体から分離する前後のいずれに行ってもよい。例えば、結晶膜を成長基体から完全に分離させ、その後、使用基体上に配置してもよい。また例えば、層状構造に水蒸気を接触させてから、あるいは水蒸気を接触させている間に、層状構造を含む結晶膜の表面に使用基体を押し当て、成長基体から分離して結晶膜を使用基体上に移動させてもよい。また例えば、層状構造を含む結晶膜と使用基体とを予め接触させてから、この層状構造に水蒸気を接触させてもよい。
【００３６】
さらに、層状構造を含む結晶膜により使用基体の両面を挟持した状態で層状構造に水蒸気を接触させてよい。この場合は、チャンバー内に、成長基体／結晶膜／使用基体／結晶膜／成長基体、からなる積層体を配置するとよい。
【００３７】
以下、図面を参照しながら、層状構造を含む結晶膜が熱電変換層である場合を例に挙げつつ、本発明について、より具体的に説明する。
【００３８】
図１に示すように、まず、上記所定構造を有する熱電変換層５を、スパッタリング法等の気相合成法を用いたエピタキシャル成長により、基体（成長基体）１０上に形成する。ここでは、層全体が上記所定構造である熱電変換層５を用いた場合について説明するが、上記のとおり、この層５は、その上部が別の構造であってもよく、その上部によって他の機能を発現しうる層であってもよい。

【００３９】

次いで、図２に示すように、熱電変換層５を形成した基体１０をチャンバー５１内に配置する。チャンバー５１内には、予め、水蒸気供給源となる水５２と、水５２の水面よりも上方に位置する保持面を備えた台５３とを収容し、熱電変換層５を形成した基体１０は台５３の保持面に配置すればよい。チャンバー５１を密閉して、所定の期間、例えば数日間、室温で放置すると、熱電変換層５が基体１０から剥離する。チャンバー５１の大きさに対して適当な量の水を収容するとチャンバー５１内の相対温度をほぼ１００％に保持することができる。剥離までの期間を短縮すべき場合には、チャンバー５１内を加熱すればよい。チャンバー５１として恒温槽を用い、チャンバー５１内の温度を７０～８０℃に保持すると、熱電変換層５は２～３時間で基体１０から剥離する。

【００４０】

図３に示すように、成長基体１０上に形成した熱電変換層５の上面に使用基体１を重ねた状態でチャンバー５１内に配置してもよい。基体１と熱電変換層５との界面には接着剤を介在させてもよい。これによると、図４に示すように、基体１０と熱電変換層５との剥離の後直ちに、基体１と、基体１上に配置された熱電変換層５とからなる結晶膜付き基体３１が得られる。

【００４１】

図５に示すように、基体１０上に成長させた上記層状構造を有する結晶膜５の上に、例えばペロブスカイト構造を有する結晶膜６をさらにエピタキシャル成長させてもよい。上記と同様、図６に示すように、結晶膜６の上面と使用基体１とが接する積層体としてからチャンバー内において水蒸気を供給すると、図７に示すように、基体１上に、ペロブスカイト構造を有する結晶膜６と上記層状構造を有する結晶膜５とが順次形成された結晶膜付き基体３２を得ることができる。

【００４２】

ただし、上記で説明したように、使用基体１は、水蒸気を供給した後に、あるいは水蒸気を供給している間に、熱電変換層５または結晶膜６に接触させてもよい。

【００４３】

熱電変換素子を構成するためには、ｐ型熱電変換層５を形成したｐ型ユニット３１（図１参照）とともに、図８に示すように、ｎ型熱電変換層７を形成したｎ型ユニット３３を作製するとよい。このユニット３３は、ｐ型熱電変換層５に代えてｎ型熱電変換層７を成長基体１上に堆積することを除いては上記と同様にして作製できる。ｐ型ユニット３１とｎ型ユニット３３とを交互に積層すると、図９に示すような積層体が得られる。

【００４４】

図１０に示すように、この積層体に、ｐ型熱電変換層５とｎ型熱電変換層７とを電気的に接続する電極９を基体１の端面に形成すると、熱電変換素子３４が得られる。この素子３４では、基体１と、ｐ型熱電変換層５またはｎ型熱電変換層７とが交互に積層され、かつｐ型熱電変換層５とｎ型熱電変換層７とは交互に配置されている。これら熱電変換層５，７は、電極９とともに、ｐ型熱電変換層５とｎ型熱電変換層７とが交互に配置された回路を構成し、この回路の両端にはヒートシンク８が配置されている。

【００４５】

この素子３４における熱電変換層５，７は、すべてエピタキシャル成長により形成されたものであってその結晶方位は揃っている。上述した製法から明らかなように、使用基体１は熱電変換層５，７の受け皿としての役割を果たすのみであるから、その材料に対する制限は少なく、樹脂、ガラス等の熱伝導率が低い材料を使用できる。こうして、絶縁性に優れた基体１と、結晶性に優れた熱電変換層５，７とを用いた特性に優れた熱電変換素子３４が得られる。

【００４６】

ｐ型ユニット３１とｎ型ユニット３３とは必ずしも交互に積層する必要はない。図１１に示すように、２以上のｐ型ユニット３１の積層体と２以上のｎ型ユニット３３の積層体とを重ね合わせた構成としてもよい。この場合は、２以上のｐ型熱電変換層５と２以上の

n型熱電変換層７とを１つの電極９が電気的に接続する。こうして得た熱電変換素子３５は、耐電流値が高く、層の破損の影響を受けにくい。

【００４７】

以上のように、熱電変換素子を作製するための一つの方法は、ｐ型熱電変換層５となる結晶膜が配置されたｐ型ユニット３１と、ｎ型熱電変換層７となる結晶膜が配置されたｎ型ユニット３３とを得て、これらユニット３１，３３を積層する方法である。この場合、２以上のｐ型ユニット３１と２以上のｎ型ユニット３３とを、ｐ型熱電変換層５またはｎ型熱電変換層７と基体１とが交互に配置されるように積層するとよく、さらに２以上のｐ型ユニット３１とｎ型ユニット３３とを交互に積層してもよい。

【００４８】

２以上の熱電変換層を使用基体に同時に移動させることもできる。この移動のためには、まず、ｐ型熱電変換層５をエピタキシャル成長させた基体１０（図１参照）とともに、図１２に示すように、ｎ型熱電変換層７をエピタキシャル成長させた基体２０を準備する。次いで、図１３に示すように、使用基体１の第１面４１にｐ型熱電変換層５が接し、この面４１と反対側の第２面４２にｎ型熱電変換層７が接するように、積層体をチャンバー５１内の台５３に置き、水５２から熱電変換層５，７へと水蒸気を供給する。

【００４９】

こうして、ｐ型熱電変換層５が基体１０から、ｎ型熱電変換層７が基体２０からそれぞれ剥離して、図１４に示すようなｐ型熱電変換層５とｎ型熱電変換層７とをともに含むｐ－ｎユニット３６が得られる。このｐ－ｎユニット３６に熱電変換層５，７を電気的に接続する電極９を形成すれば、図１５および図１６に示すような、基体１の第１面４１にｐ型熱電変換層５が、この面４１と反対側の第２面４２にｎ型熱電変換層がそれぞれ配置された熱電変換素子３７を得ることができる。

【００５０】

ｐ－ｎユニット３６の熱電変換層５，７を所定のパターンを描くように加工してもよい。この加工は、ｐ型熱電変換層５およびｎ型熱電変換層７の一部を除去して所定のパターンとする工程により実施できる。例えば、図１７に示すように、パターニングした熱電変換層５，７を互いに接続するように電極９を配置すれば、基体１の第１面４１に配置された２以上のｐ型熱電変換層５と、第２面４２に配置された２以上のｎ型熱電変換層７と、ｐ型熱電変換層５とｎ型熱電変換層７とを電気的に接続する２以上の電極９とを含み、電極９がｐ型熱電変換層５とｎ型熱電変換層７とを交互に電気的に接続する熱電変換素子３８を得ることができる。この素子３８においても、回路の両端にヒートシンク８を配置することが好ましい。

【００５１】

この素子３８では、基体１の第１面４１および第２面４２が第１端部４３および第２端部４４を有し、ｐ型熱電変換層５およびｎ型熱電変換層７が第１端部４３から第２端部４４へと第１面４１および第２面４２を横断するように配置されている。この配置によれば、端部４３，４４に配置した電極９により、熱電変換層５，７を電気的に接続できる。

【００５２】

図１８に示す熱電変換素子３９では、基体１の第１面４１および第２面４２が２つの端部を有し、第１端部が内周端４５を形成し、第２端部が外周端４６を形成するリング状の面となっている。２以上のｐ型熱電変換層５および２以上のｎ型熱電変換層７は、これら端部４５，４６の間に配置されている。この素子３９は、例えば、内周端４５を熱流が通過するパイプの周りに配置すると、熱発電装置として機能する。また例えば、回路の端部に位置する電極９と直流電源とを接続することにより、例えば内周端４５側を冷却し、外周端４６側を放熱する冷却装置として機能する。また例えば内周端４５側に集光する装置とともに用いると、内周端４５側の温度の上昇により発生する起電力により赤外線を感知する赤外線センサーとしても使用できる。説明を省略したが、上記各熱電変換素子も、上記と同様、熱発電装置、局部冷却装置、赤外線センサー等として使用できる。

【００５３】

図１４に示したｐ－ｎユニット３６は、ｐ型ユニット３１とｎ型ユニット３３とを用いて作製することもできる。この場合、ｐ型ユニット３１とｎ型ユニット３３とを、ｐ型熱電変換層５またはｎ型熱電変換層７が形成された面と反対側の面で互いに接合するとよい。こうして得た結合ユニットでは、ｐ型熱電変換層５とｎ型熱電変換層７とが接合された基体１において互いに反対側の面に配置されたｐ－ｎユニットとなる。こうして得た結合ユニットを用いて、図１７，図１８に示したような熱電変換素子３８，３９を作製してもよい。

【００５４】

以下、実施例により、本発明をさらに具体的に説明する。

【００５５】

（実施例１）

スパッタリング法により、サファイア単結晶基板１０上に$Na_{0.5}CoO_2$で示されるｐ型熱電変換層５をエピタキシャル成長させ、別のサファイア単結晶基板１０上に$Na_{0.5}(Ti_{0.8}Co_{0.2})O_2$で示されるｎ型熱電変換層７をエピタキシャル成長させた。スパッタリング法は、組成が上記各式となるように秤量し、均一となるまで混合したターゲットを用い、ＡｒガスとＯ２ガスとを３：１に混合した圧力５Ｐａの雰囲気下で、基板温度を７００℃に保持しながら実施した。約２時間のスパッタリングにより、両熱電変換層の厚みはともに約９００ｎｍとなった。

【００５６】

こうして得た２つの基板１０を、図２と同様、水を収容したチャンバー内に封入し、７０℃の恒温槽内で３時間放置した。その後、厚み０．１ｍｍのアクリル板１を熱電変換層５，７の表面にそれぞれ押し当てて熱電変換層５，７をアクリル板１上に転写した。こうして、Ｐ型ユニット３１およびｎ型ユニット３３を得た。

【００５７】

さらに、両ユニット３１，３３を、熱電変換層５，７を形成した面と反対側の面をエポキシ系接着剤で互いに接合し、熱電変換層５，７が接続されるようにアクリル板１の端面に銀ペーストを塗布して電極９を形成した。こうして、ペルチェ型熱電変換素子３７を作製した。

【００５８】

また、この素子３７の両面の熱電変換層５，７を、電極を形成する前に、フォトリソグラフィー技術を適用してパターニングし、パターニングした熱電変換層５，７を互いに接続する位置に銀ペーストを塗布して電極９を形成し、さらにヒートシンク８を配置して、図１７に示したようなペルチェ型熱電変換素子３８を作製した。

【００５９】

（実施例２）

ｎ型熱電変換層７として、$Na_{0.5}(Ti_{0.8}Co_{0.2})O_2$に代えて、$Na_{0.5}CoO_2$で示される膜とＡｌを２％ドープしたＺｎＯ膜との２層膜を形成した以外は、実施例１と同様にして、ペルチェ型熱電変換素子３７，３８を作製した。ｎ型熱電変換層は、$Na_{0.5}CoO_2$で示される膜を５０ｎｍエピタキシャル成長させた後、この膜の上に、ｃ軸配向のＡｌドープＺｎＯ膜を９００ｎｍエピタキシャル成長させた。

【００６０】

なお、$Na_{0.5}CoO_2$で示される膜の上には、ＡｌドープＺｎＯ膜に代えて、$(Sr_{0.9}La_{0.1})TiO_3$で示される膜をエピタキシャル成長させることもできた。この膜は（１１１）面にエピタキシャル成長した。

【００６１】

層状構造を有する膜として、$Na_{0.5}CoO_2$ではなく$Na_{0.5}(Ti_{0.8}Co_{0.2})O_2$を用いた場合にも、ＡｌドープＺｎＯ膜をエピタキシャル成長させることはできた。

【００６２】

（比較例１）

サファイア単結晶基板上に$Sr_{0.4}CoO_2$で示される膜をエピタキシャル成長させた。

この膜もスパッタリング法により成膜した。スパッタリング法は、組成が上記式となるように秤量し、均一となるまで混合したターゲットを用い、ＡｒガスとＯ$_2$ガスとを３：１に混合した圧力３Ｐａの雰囲気下で、基体温度を７００℃に保持しながら実施した。約２時間のスパッタリングにより、上記の膜の厚みは約９００ｎｍとなった。

【００６３】

引き続き、この基板を実施例１と同様にしてチャンバー内に保持し、上記の膜に水蒸気を供給した。しかし、この膜は上記基板から剥離せず、基板から分離することはできなかった。

【００６４】

（比較例２）

実施例１と同様にして、ｐ型熱電変換層を形成した基板とｎ型熱電変換層を形成した基板とを得た。これらの基板をチャンバー内の上台上ではなく水に浸漬した状態で保持したところ、熱電変換層は剥離せず、基板から分離することはできなかった。

【産業上の利用可能性】

【００６５】

本発明によれば、エピタキシャル成長させた良質の結晶膜を用いた各種素子における基体の制限を大幅に緩和できる。本発明によれば、例えば、良質な結晶性を有する熱電変換層と、熱伝導率が低い基体とを用いた熱電変換素子を得ることもできる。

【図面の簡単な説明】

【００６６】

【図１】図１は、エピタキシャル成長による膜の堆積工程の一例を示す断面図である。

【図２】図２は、層状構造と水蒸気とを接触させる工程の一例を示す断面図である。

【図３】図３は、水蒸気と接触させる積層体の一例を示す断面図である。

【図４】図４は、成長膜付き基体の一例（ｐ型ユニット）を示す断面図である。

【図５】図５は、エピタキシャル成長による膜の堆積工程の別の例を示す断面図である。

【図６】図６は、水蒸気と接触させる積層体の別の例を示す断面図である。

【図７】図７は、成長膜付き基体の別の例を示す断面図である。

【図８】図８は、成長膜付き基体のまた別の例（ｎ型ユニット）を示す断面図である。

【図９】図９は、成長膜付き基体の積層体の一例を示す断面図である。

【図１０】図１０は、熱電変換素子の一例を示す断面図である。

【図１１】図１１は、熱電変換素子の別の例を示す断面図である。

【図１２】図１２は、エピタキシャル成長による膜の堆積工程のまた別の例を示す断面図である。

【図１３】図１３は、層状構造と水蒸気とを接触させる工程の別の例を示す断面図である。

【図１４】図１４は、成長膜付き基体のまた別の例（ｐ－ｎユニット）を示す断面図である。

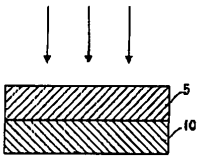
【図１５】図１５は、図１４に示した基体を用いて得た熱電変換素子の例を示す断面図である。

【図１６】図１６は、図１５に示した素子の斜視図である。

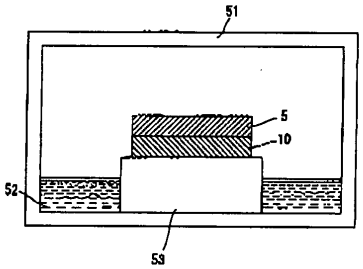
【図１７】図１７は、熱電変換素子のまた別の例を示す平面図である。

【図１８】図１８は、熱電変換素子のさらに別の例を示す平面図である。

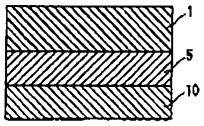
【図１】



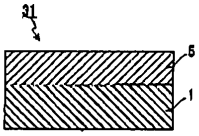
【図２】



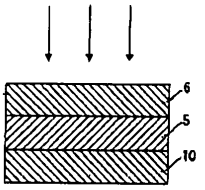
【図３】



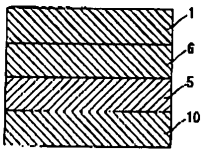
【図４】



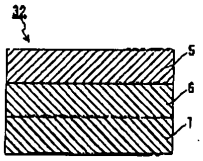
【図５】



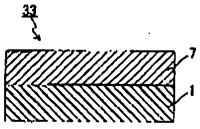
【図６】



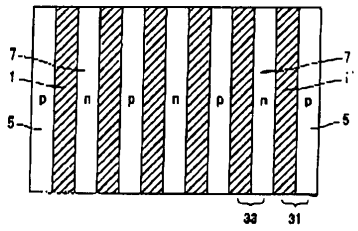
【図７】



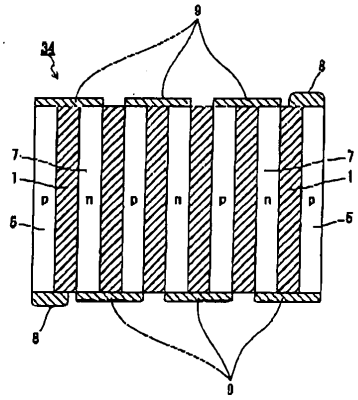
【図８】



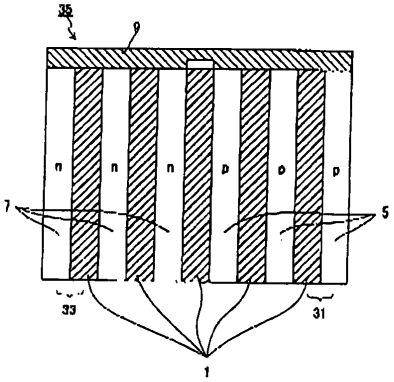
【図９】



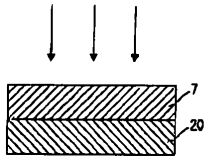
【図１０】



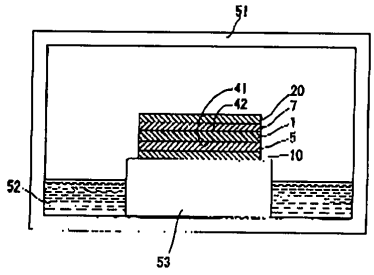
【図１１】



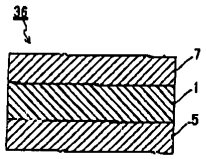
【図１２】



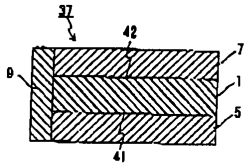
【図１３】



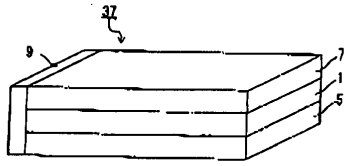
【図１４】
[図14]



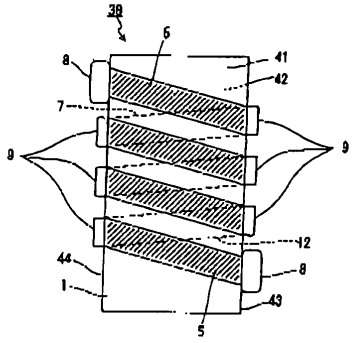
【図１５】
[図15]



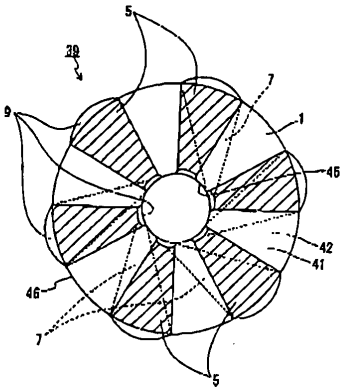
【図１６】
[図16]



【図１７】
[図17]



【図１８】
[図18]



フロントページの続き

(72)発明者 杉田 康成
大阪府門真市大字門真１００６番地 松下電器産業株式会社内
(72)発明者 菅野 勉
大阪府門真市大字門真１００６番地 松下電器産業株式会社内

審査官 新居田 知生

(56)参考文献 特開２００２－２０３８２１（ＪＰ，Ａ）
特開平６－１７５３５８（ＪＰ，Ａ）
特開２００４－８８０６５（ＪＰ，Ａ）
特開２００２－３１６８９８（ＪＰ，Ａ）

(58)調査した分野(Int.Cl., ＤＢ名)
C23C 14/58
C23C 16/01
H01L 35/34

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

McDERMOTT WILL & EMERY, LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20006-1021

AUG 16 2007

In re Application of	:	DECISION ON REQUEST TO
Satoshi YOTSUHASHI	:	PARTICIPATE IN PATENT
Application No. 11/103,525	:	PROSECUTION HIGHWAY
Filed: April 12, 2005	:	PILOT PROGRAM AND PETITION
Attorney Docket No. 071025-0014	:	TO MAKE SPECIAL UNDER
	:	37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed July 16, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

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 Kathryn Gorgos at 571 272-1012.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

Kathryn Gorgos
TQAS TC 1700

Disclaimer:
This English translation is produced by machine translation and may contain errors. The JPO, the INPIT, and those who drafted this document in the original language are not responsible for the result of the translation.

Notes:
1. Untranslatable words are replaced with asterisks (****).
2. Texts in the figures are not translated and shown as it is.

Translated: 00:39:49 JST 08/03/2007
Dictionary: Last updated 07/20/2007 / Priority:

Decision to Grant a Patent

Application number: Application for patent 2005-515485
Date of Drafting: Heisei 18(2006) April 12
Patent examiner: NIIDA, Tomoo 8618 4G00
Title of invention: The manufacture method of a crystal film, the manufacture method of a base with a crystal film, and the manufacture method of thermoelectric conversion elements
The number of claims: 38
Applicant: MATSUSHITA ELECTRIC INDUSTRIAL CO. LTD.
Representative: KAMADA, Koichi (and 1 others)

This application is to be granted a patent as there is no reason for refusal.

Director General(p.p.) Director(p.p.) Examiner Assistant examiner Manager for Determination of Classification MIYAZAWA, Takayuki NIIDA, Tomoo EBIHARA, Eiko 9278 8618 9342

1. Distinction of Patent: Usually
2. Reference documents: **
3. Application of Patent Law, Section 30: Nothing
4. Change of Title of Invention: Nothing
5. International Patent Classification (IPC)
C23C 14/58 Z, C23C 16/01 , H01L 35/34

6. Deposition of Microorganism

7. Display of Purport that Retroactivity of Filing Date is not Accepted

Decision to Grant a Patent(Memorandum)

Application number: Application for patent 2005-515485

1. Technical Fields to Be Searched (IPC, DB Name)
C23C 14/58 C23C 16/01 H01L 35/34

2. Reference patent documents
JP,2002-203821,A (JP, A) JP,6-175358,A (JP, A) JP,2004-88065,A (JP, A) JP,2002-316898,A (JP, A)

3. Reference books and magazines

[Translation done.]

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

BIRCH, STEWART, KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

COPY MAILED

JUL 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Shinichi Murata	:	
Application No. 11/103,556	:	DECISION DISMISSING PETITION
Filed: April 12, 2005	:	UNDER 37 CFR 1.313(a)
Attorney Docket No. 0042-0528PUS1	:	

This is a decision on the petition under 37 CFR 1.313(a), filed June 28, 2007, requesting withdrawal of the above-identified application from issue.

The petition is **DISMISSED** as moot for the reasons stated below.

A review of the file record discloses that a Notice of Allowance and Fee(s) Due was mailed on March 28, 2007, with the issue fee being due on or before June 28, 2007. The issue fee in this case has not been paid.

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application from issue prior to payment of the issue fee. In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Telephone inquiries concerning this decision may be directed to April Wise at (571) 272-1642.

The matter is being referred to Technology Center AU 3748 for appropriate processing of the RCE filed June 28, 2007, and for consideration of the concurrently filed amendment.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/103,602	04/12/2005	Atsushi Monden	123485	8640

7590 10/20/2008

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

EXAMINER	
VERDERAME, ANNA L	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
10/20/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Laletus Buchanan

Patent Publication Branch
Office of Data Management

Adjustment date: 10/21/2008 KKING1
04/13/2005 NNGUYEN1 00000058 11103602
02 FC:1111 -500.00 OP

Repln. Ref: 10/21/2008 KKING1 0015355700
DA#:150461 Name/Number:11103602
FC: 9204 $500.00 CR

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

ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/21/2010

Applicant	: Bo-Yeon Kim	: DECISION ON REQUEST FOR
Patent Number	: 7652722	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/103,607	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **726** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON MA 02109-2881

COPY MAILED

JUN 20 2008

OFFICE OF PETITIONS

In re Patent No. 7,122,449 :
Issue Date: October 17, 2006 :
Application No. 11/103,681 : ON PETITION
Filed: April 12, 2005 :
Attorney Docket Number: ASC-004C1 :

This is a decision on the petition, filed July 6, 2007, under 37 CFR 1.182, requesting the issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

Since it is U.S. Patent and Trademark Office practice to assure mailing of all papers on the date indicated, there is a strong presumption that papers duly addressed and indicated as mailed, such as the Letters Patent in this application, are timely delivered to the addressee. To overcome this presumption, a verified statement with supporting evidence, such as any records which would disclose the receipt of other correspondence mailed from the U.S. Patent and Trademark Office on or about October 17, 2006, but fail to disclose receipt of the Letters Patent mailed on that date, should be promptly submitted. Further, copies of records on which receipt of the Letters Patent would have been entered had it been received are required.

However, if the loss of the Letters Patent was not the fault of the U.S. Patent and Trademark Office or if petitioner simply wishes to avoid overcoming the above-noted presumption, a petition may be filed under 37 CFR 1.182 accompanied by a petition fee of $400.00 requesting a duplicate Letters Patent. Upon receipt of the petition and petition fee, the request for a duplicate Letters Patent will be granted.

Petitioners state that the Letters Patent was received from the USPTO but cannot be located. The petition fee in the amount of $400.00 has been applied.

A copy of this decision is being forwarded to Office of Data Management for issuance of a duplicate Letters Patent.

The Office of Data Management is directed to issue a duplicate Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned Senior Petitions Attorney at (571) 272-3212. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to the Office of Data Management at (703) 308-9250.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc: Niomi Farmer (Fax – (571) 270-9753)

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 20 2005

Leo J. Aubel
111 Rivershire Lane
Lincolnshire IL 60069

In re Application of :
David W. Lewis :
Serial No.: 11/103,687 : DECISION ON PETITION
Filed: April 12, 2005 :
For: A Device for Providing a Combination :
Of Flexibility and Variable Force to the :
Spinal Column for the Treatment of :
Scoliosis :

This is in response to applicants' petition filed April 12, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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

STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/26/2010

Applicant	: Chunxing Deng	: DECISION ON REQUEST FOR
Patent Number	: 7614717	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/103,695	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 04/12/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **457** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/103,707	04/12/2005	2857	1000	14885	1	20	3

CONFIRMATION NO. 7898

27889
ILLINOIS TOOL WORKS INC.
3600 WEST LAKE AVENUE
PATENT DEPARTMENT
GLENVIEW, IL 60025

CORRECTED FILING RECEIPT

OC000000016089751

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)

Mark J. Summer, Frankfort, IL;
Martin A. Witt, Tinley Park, IL;

Power of Attorney: The patent practitioners associated with Customer Number **27889**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/599,796 08/06/2004

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/103,707

Projected Publication Date: 02/09/2006

Non-Publication Request: No

Early Publication Request: No

Title

Hydrometer/fluid level sensor

Preliminary Class

702

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BROOKS KUSHMAN P.C./FGTL
1000 TOWN CENTER
22ND FLOOR
SOUTHFIELD, MI 48075-1238

COPY MAILED

NOV 0 6 2007

OFFICE OF PETITIONS

In re Application of :
Dale Autio et al :
Application No. 11/103,710 : DECISION ON PETITION
Filed: April 12, 2005 :
Attorney Docket No. :
FMC 1700 PUS/81098955

This is in response to the petition under 37 CFR 1.47(a), filed April 12, 2005.[1]

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor, Dale Autio, has refused to join in the filing of the above-identified application, as demonstrated by Mr. Autio's lack of reply to an Email, telephone calls, and repeated mailing of the application papers to his last known address.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed on October 18, 2007. Failure to timely pay the issue and publication fees will result in the abandonment of this application

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The Office sincerely apologizes for the delay in replying to this petition and any inconvenience this delay may have caused petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA NY 14850-1248

COPY MAILED

AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Finlay et al.	:	
Application No. 11/103,722	:	ON PETITION
Filed: April 12, 2005	:	
Attorney Docket No. 905P189 (CIP)	:	

This is a decision on the petition under 37 CFR §1.102(d), filed February 21, 2006, to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2836 for expedited prosecution.

David Bucci
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

ConocoPhillips Company - IP
Services Group
Attention: DOCKETING
600 N. Dairy Ashford
Bldg. MA-1135
Houston TX 77079

COPY MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application of

Xu, et al.

Application No. 11/103,724

Filed: April 12, 2005

Attorney Docket No **9312.A-00**

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed October 29, 2008, which set a shortened period for reply of one month from its mailing date. A response was not received within the allowable period. The application became abandoned on November 20, 2008. A Notice of Abandonment was mailed on June 11, 2009.

The response filed June 17, 2009, is noted.

The application is being forwarded to Technology Center 1700, GAU 1793 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

SMITH, GAMBRELL & RUSSELL, LLP
1230 PEACHTREE STREET, N.E.
SUITE 3100, PROMENADE II
ATLANTA, GA 30309-3592

COPY MAILED

DEC 2 0 2005

OFFICE OF PETITIONS

In re Application of
Akihiro Yamane
Application No. 11/103,725
Filed: April 12, 2005
Attorney Docket No. 032405.208

DECISION GRANTING PETITION

This is a decision on the petition, filed September 8, 2005, requesting that the above-identified application be accorded a filing date of April 12, 2005, instead of the presently accorded date of April 11, 2005.

Petitioners request the later filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on April 12, 2005, pursuant to 37 CFR 1.10. In support, petitioners provide a copy of the receipt for Express Mail Label No. EV 462308971 US. The same Express Mail number appears on the original Application Transmittal Letter found in the file. It is noted that while the "date-in" on the copy of the Express Mail receipt is written as "4 11 05," it also includes a "USPS" receipt stamp date of "APR 12 2005." In view of the conflicting dates on the mailing label, restoration of the USPS Track/Confirm record for Express Mail Label No. EV 462308971 US was requested. The record corroborates acceptance of the "Express Mail" package in question at the USPS Atlanta GA 30309 at 4:41pm on April 12, 2005.

Accordingly, the petition is **GRANTED**.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing and correction of the filing date to **April 12, 2005**.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy